

<http://researchcommons.waikato.ac.nz/>

Research Commons at the University of Waikato

Copyright Statement:

The digital copy of this thesis is protected by the Copyright Act 1994 (New Zealand).

The thesis may be consulted by you, provided you comply with the provisions of the Act and the following conditions of use:

- Any use you make of these documents or images must be for research or private study purposes only, and you may not make them available to any other person.
- Authors control the copyright of their thesis. You will recognise the author's right to be identified as the author of the thesis, and due acknowledgement will be made to the author where appropriate.
- You will obtain the author's permission before publishing any material from the thesis.

**Faith, Politics and Reconciliation: The Roman Catholic Church, New Zealand
Maori and Indigenous Australians**

**A thesis
submitted in partial fulfilment
of the requirements for the Degree
of Doctor of Philosophy in Political Science
at the
University of Waikato
by
DOMINIC O'SULLIVAN**

**University of Waikato
2003**

ABSTRACT

The Roman Catholic Church claims from Jesus Christ a mission to teach consistently religious ideals in accordance with its understanding of God's constant truth. These ideals include the belief that human creation in the image and likeness of God establishes rights to dignity, to culture, to religious freedom, to self-determination and a share in the common good. These ideals form the basis of the unique contribution to human affairs which the Church claims it can make. Although these are religious goals for the Church, they require political realisation, which means that the Church cannot but be alert to the formation of alliances of common intellectual aspiration around concrete political issues so that secular expression and context can be given to the magisterium (the Church's body of teaching). At the same time the Catholic hierarchy is conscious of a need for caution in how it responds to political events lest that religious mission be compromised by a perception of it as a partisan political lobby group, thus lessening its capacity to make its unique contribution to human affairs.

The Second Vatican Council reaffirmed that the Church's religious objectives do not exist in isolation from the political order because human law, which is developed through the secular political process, should conform to the religious natural law. Prior to the Council's reaffirmation the Australian and New Zealand Churches generally, but not exclusively, understated or misunderstood this relationship and became impotent in challenging secular objectives inconsistent with religious aspiration. In contrast when the Church has accepted the relationship, as it has since the Second Vatican Council, it has positioned itself to identify opportunities to give secular context and expression to religious thought. Such opportunities increased from the 1960s onwards as political

developments in both Australia and New Zealand saw a secular questioning of racism and a broadening of the parameters of secular political debate to the extent that established Catholic thought was shifted from the fringes to the widening mainstream of public opinion on indigenous policy.

Although the Second Vatican Council required attention to the relationship between religious ends and political means, the changing secular environment was a significant factor in encouraging public advocacy in support of indigenous aspiration, which peaked in Australia in the 1990s with substantial Church interest in the native title debate and with the Church playing a leading role in the entrenchment of reconciliation – a religious concept – on the Australian political landscape. In New Zealand there has been an equal but less vocal interest in reconciliation because the political process itself established the Treaty of Waitangi as a political context for reconciliation and a context around which the Church has been able to focus its interest in the advancement of Maori aspiration. Yet, while the Treaty of Waitangi and the associated bicultural discourse have provided contexts for the expression of religious principle, they have also detracted from the Church's use of its own magisterium as the moral authority for the articulation of its aspirations for Maori.

ACKNOWLEDGEMENTS

Firstly I want to thank my family for their wonderful support of this thesis. My father Vincent O'Sullivan suggested the topic and has provided advice and assistance throughout the project. My mother Tui and sister Deirdre O'Sullivan have always shown inspirational interest and encouragement and Rose Walsh assisted with proof reading the text.

My Chief Supervisor Colm McKeogh has been a marvellous source of advice, inspiration and encouragement over the past four and a half years as has my second supervisor Douglas Pratt. I am enormously grateful for their time and expertise. I thank Alan Simpson for his assistance while Dr McKeogh was on leave and Alastair Gunn for kindly joining the supervision panel in Dr Pratt's absence.

There are numerous archivists, librarians, clergy and religious who have willingly provided material essential to this project. I thank them all, but especially Father Bruce Bolland of the Auckland Catholic Diocesan Archive and Brother Gerard Hogg SM of the Marist Archive Wellington. Staff of the National Library of Australia were also extremely helpful.

Finally, there are numerous friends and colleagues who have provided advice, support and interest in the course of this study. I mention especially, Paul Harris, Te Maramatanga Hunter, Father Trevor Murray, Robin Silcock and David Stanley.

CONTENTS

Abstact	ii
Acknowledgements	iv
Contents	v
Abbreviations	ix
Introduction	1
Argument	4
Structure	9
Chapter One	
The Church's Teaching Mission and Teaching Authority	12
Introduction	12
The Teaching Mission and 'Discipleship' of Christ	13
The Teaching Mission and the Political Order	15
Social Application of the Teaching Mission	21
Religious Mission, the Common Good, the Role of the State and Self-Determination	23
Human Rights and Racism	27
The Teaching Authority within the Church	37
Summary	46
Chapter Two	
Political Means to a Religious End	47
Introduction	47
The Church and the Political Order	48
Liberation Theology	55
The Second Vatican Council	61
The Medellin Conference	66
<i>Evangelii Nuntiandi</i> and the Puebla Conference	68
<i>Instruction on Certain Aspects of the</i> <i>"Theology of Liberation"</i> and	71
<i>Instruction on Christian Freedom and Liberation</i>	
Summary	75

Chapter Three
The Australian Church and Indigenous Australians
before the Second Vatican Council 77

Introduction	77
<i>Terra Nullius</i> : The British Claim to Australia	78
Sectarian Prejudice	83
Voices of Nineteenth Century Protest	85
The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tenison Woods	94
Federation, Indigenous Exclusion and The Stolen Generations	103
Summary	121

Chapter Four
The Political Context of New Zealand Missionary
Practice before the Second Vatican Council 122

Introduction	122
The Settlement and Government of New Zealand	123
Pompallier, the Treaty of Waitangi and The Waikato War	130
Voices of Nineteenth Century Protest: Vaggioli and the Freeman's Journal	138
Assimilation: a confused and inconsistent approach	142
The Pretence of Racial Harmony	148
Summary	153

Chapter Five
Political and Religious Change and the Emergence
Of Australian Reconciliation 155

Introduction	155
The Broadening of the Parameters of Secular Debate	156
Land Rights and Self-Determination	162
An Australian Treaty?	169
Hawke and Land Rights	172
Native Title	175
Towards Reconciliation	188
Saying 'Sorry': a Pre-Condition of Reconciliation	195
Summary	210

Chapter Six

Reconciliation, Land Rights and Australian Religious Activism in the Political Arena 212

Introduction	212
Beginnings of a New Religious Activism	213
The Social Justice Sunday Statement 1978	216
John Paul II: Alice Springs 1986	217
Reconciliation and the Synod of Bishops for Oceania	221
Political Barriers to Reconciliation	226
Reconciliation and the Bicentenary	229
Reconciliation and Native Title	239
Summary	261

Chapter Seven

Reconciliation, Religious Activism, Biculturalism and the Treaty of Waitangi: the New Zealand Church after the Second Vatican Council 263

Introduction	263
Political Change	264
Maori Parliamentary Representation	269
Reconciliation in the New Zealand Context	272
Biculturalism	279
The Church in Bicultural Political Context	281
The Church Embraces Biculturalism	283
Biculturalism and Catholic Political Activism	292
<i>New Hope for Our Society</i>	296
<i>Ten Steps Towards Bicultural Action</i>	299
Language and Biculturalism	302
Further Bicultural Discourse and the Treaty of Waitangi	304
Summary	318

Chapter Eight

Conclusion	322
Religious Imperative to Political Engagement	322
Religious and Political Barriers to Political Engagement	324
Post-Second Vatican Council: a New Religious and Political Context	330
Summary	336
Bibliography	338

ABBREVIATIONS

ACDA
MAW
MBAA

Auckland Catholic Diocesan Archive
Marist Archive Wellington
Marist Brothers' Archive Auckland

INTRODUCTION

In 1986, Pope John Paul II told the New Zealand Catholic Bishops' Conference that:

Social and moral values are not irrelevant to public policy, nor can public policy prescind from these values... When you speak about issues of peace and human rights, and when you work for justice, you are contributing to the well-being of all society.

When you speak about reconciliation you are touching one of humanity's deepest needs. What is at stake is true reconciliation with God, with one's fellow human beings and with oneself.¹

Further, John Paul commented that:

The Christian experience can sometimes be reduced to a too inward-looking attitude of personal well-being and to the assimilation of a set of vague principles which are insufficiently clear or strong in the face of the present challenge to faith.

A secularised society needs to be confronted again by the entire Gospel of salvation in Jesus Christ. As Shepherds of God's people, we are sent to the contemporary world, to the men and women of our time, 'to preach the Gospel...' (1 Corinthians 1: 17).²

The Pope's remarks raised several questions, which this thesis aims to answer. If the Pope was suggesting a religious imperative to political engagement, did it apply to contemporary Maori policy debate? If it applied to contemporary debate why had the Church³ largely remained silent in earlier times of pronounced government aggression towards Maori? Was John Paul articulating new theological insight or had the Church historically been remiss in not attending to political questions concerning Maori? The casual responses of some clergy to informal queries were inadequate. The Church had simply not thought about such issues. Their relationship to religious principle was not addressed in seminary training, although perhaps it should have been.

¹ John Paul II, "Meeting with New Zealand Bishops", in *Peace: The Message of the Gospel. Complete Texts of Addresses Given by Pope John Paul II During His Pastoral Visit to New Zealand 22-24 November 1986* Wellington: Catholic Communications for the New Zealand Catholic Bishops' Conference, 1986, 29.

² *Ibid.*, 27.

³ The term Church is used to mean the institutional Roman Catholic Church and bodies and individuals that speak with its authority. The various levels of authority within the Church are explained in Chapter One.

Simplistically inadequate explanations did however raise further questions. Indeed, why is there a religious imperative for political engagement at all? Is political engagement not in contradiction with the Church's insistence that it is not a political lobby group, that it is 'in' but not 'of' this world,⁴ claims no political mission and bans its clergy and religious⁵ from holding elected political office? If there is no inconsistency, there must at least be constraints on political engagement? What are they and why do they exist? Is it significant for the Church if these constraints are overlooked?

In 1981, the New Zealand Catholic hierarchy had opposed the tour of New Zealand by the white only 'national' South African Springbok rugby team. The exclusion of black and coloured players was not based on merit but on a political decision not to consider them for selection. The Church's opposition to the tour was based on its theoretical repudiation of racism.⁶ If South African racism could be challenged in 1981, and a religious imperative for political engagement could be implied to the New Zealand Bishops by the Pope in 1986, what might the Church have to contribute to political debate about government relations with Maori? What had it previously contributed or not contributed, and why?

If the Church had been inattentive to racism in New Zealand in the past why was the opposite so evident from the 1960s onwards? To what extent was this due to the emphases of the Second Vatican Council? To what extent was it due to significant

⁴ The Gospel According to John, *Good News Bible: Today's English Version*. London: 1981. Chapter 18: 36, and Paul's Letter to the Romans, *Good News Bible: Today's English Version*. Chapter 12: 2.

⁵ In this sense the word religious refers to members of religious orders. The term differentiates ordained ministers who are members of religious orders from those who are ordained to ministry in the service of a diocese.

⁶ Racism refers 'to prejudice or hostility towards a people because of their racial origin'. Racism can be 'institutionalised', in which case it is a prejudice 'that is entrenched in the norms and values of an organisation or social system, and so is not dependent upon conscious acts of discrimination or hostility.' Andrew Heywood, *Key Concepts in Politics*. Basingstoke: Macmillan, 2000, 70.

political change that broadened the parameters of secular political debate thus creating space for the more ready articulation of Catholic principles on the rights of indigenous peoples? Did the general, but not absolute Church silence on racism towards Maori cease for religious or political reasons?

If these questions are relevant in New Zealand they are also relevant elsewhere. Therefore this thesis adopts a comparative approach and asks the same questions about how the Australian Catholic Church has presented, or not presented, religious ideas about human dignity and equality in the context of Australian state laws and policies towards the indigenous Aboriginal and Torres Strait Islander peoples. Has the difference between the Australian and New Zealand Catholic approaches to indigenous mistreatment by the political realm been substantial? If it has, to what extent is that attributable to differences in political context and to what extent is it attributable to different attitudes, judgements and individual preferences and influences within each Church? When the Church has made comment in the political arena has it done so with a theological substance making it distinguishable from a purely political lobby group? Is its religious purpose clear, or do individual Catholics with a particular political objective simply use the Church's broad commitment to justice for indigenous peoples to provide a vehicle from which to give public expression to a specific political preference?

These questions have required a methodology of contextual narrative and documentary theological and political analysis covering four distinct historical contexts: pre-Second Vatican Council New Zealand, pre-Second Vatican Council Australia, post-Council New Zealand and post-Council Australia. Each of these needed to be addressed in order that fundamental questions about difference and similarity between time and place could be

addressed. The primary sources used to form conclusions about the questions asked have included papal encyclical letters and pastoral letters of both episcopal conferences and individual bishops. Media statements, homilies, submissions to parliamentary committees and to commissions of inquiry made by episcopal conferences, bishops, clergy, religious and Church commissions and committees have also been drawn upon. Parliamentary debates, speeches and media statements by secular political actors and reports of commissions of inquiry have been used to place religious comment and advocacy in proper political context. Secondary sources which have been considered have included both secular and religious historical, political and legal commentary, which have assisted with both contextual narrative and political and theological analysis of primary sources.

Argument

The Roman Catholic Church claims that Jesus Christ gave it a teaching mission, a mission to advance to all humankind its religious ideals, to promote a 'discipleship of Christ'.⁷ Central to Church thought is that by virtue of their creation in the image and likeness of God all people have rights to dignity, a share in the common good, to culture, to religious freedom and to self-determination.

These religious goals require political realisation. The Church therefore, cannot but be alert for political issues to give secular expression and application to its magisterium. The magisterium of the Roman Catholic Church is its body of teaching. Its formation, development and promulgation is explained in Chapters One and Two. The Church can give social and political expression to its moral and theological ideas only by forming intellectual alliances of common aspiration with proponents of related ideas in the secular

⁷ The Gospel According to Matthew, *Good News Bible: Today's English Version*. London: 1981. Chapter 28: 19-20.

political realm. This however places the Church at risk of undue influence from contemporary political thought, or undue inhibition in its theological expression. From the time of the Church's arrival in Australia and New Zealand to the present there have been many examples of an incisive and forthright advocacy of religious rights with political implications for indigenous peoples. Yet more often than not the influence of secular thought and context has seen the political implications of a consistent theology variously put to one side, misunderstood, or latterly even overstated by Church personnel. Consistent theology, but inconsistent public interpretation and expression of that theology, are the principal characteristics of the Church's approach to politics⁸ as it concerns the Maori people of New Zealand and the Aboriginal and Torres Strait Islander peoples of Australia.⁹

The Church's core mission is religious, not political. There are forms of political activity that are outside the Church's self-identified competence. The Church's religious objectives do not however exist in isolation from the political order. For the Church holds that human law should conform to the natural law.¹⁰ Human law develops within the political order, which means that for the Church a relationship with and understanding of

⁸ Politics is the process by which societies make decisions about how they will organise themselves and their relations with other societies. This thesis is concerned with how the Roman Catholic Church conceives of itself and interacts with the politics of the secular realm as it deals with matters of indigenous policy in Australia and New Zealand.

⁹ 2001 New Zealand census data states that 14% of New Zealanders are Maori, 13% of Maori are Catholic. The Catholic Church is second to the Anglican Church as the largest religious group claiming Maori adherents. 14% of the total New Zealand population is Catholic. Statistics New Zealand, *Latest Information* (2003: [cited 1 July 2003]); available from <http://www.stats.govt.nz/>. At the 2001 census 'the experimental estimated resident Indigenous population' of Australia was 2.4% of the total population. Australian Bureau of Statistics, *Census of Population and Housing* (2001: [cited 1 July 2003]); available from <http://www.abs.gov.au/websitedbs/D3310114.NSF/4a256353001af3ed4b2562bb00121564/0fe8206bf6b0d763ca2567f4002146fc?OpenDocument>. The Catholic Church is the largest church in Australia and its 5.1 million adherents comprise 28% of the total Australian population. Catholic Hierarchy, *Statistics by Country by Catholic Population* (2003: [cited 1 July 2003]); available from <http://www.catholic-hierarchy.org/country/sc1.html>.

¹⁰ The natural law and human law contribute to Thomas Aquinas' authoritative four-fold categorisation of law which is explained in Chapter One.

that order is essential to the fulfilling of its mission. The pursuit of religious objectives invariably requires political means. When the Church has rejected this relationship it has become impotent in its ability to challenge the political order when that order pursues goals inconsistent with the Church's religious aspirations. When the Church has been so influenced by popular political and social beliefs that it has not realised, or perhaps admitted, that its teachings have been compromised by the state; consequently it became impotent in the promotion of its magisterium. Although there were isolated and important exceptions, one or other of these situations was evident until the 1960s in both Australia and New Zealand.

During the nineteenth century and much of the twentieth, a narrowness of interpretation meant that the question of how the Church should respond to political decisions that compromised its magisterium was not always considered, and indeed these compromises were not always identified. There was a common but erroneous view among Church leaders that politics was beyond their legitimate interest.¹¹ Many maintained a rigid distinction between politics and religion, and did not widely consider the possibility that each had implications for the other. Yet at the same time those prelates who argued vociferously for the rights of indigenous peoples did so out of a sense of religious duty, not out of a sense of commitment to a political cause. They accepted the notion that those rights, which the Church teaches as belonging to indigenous peoples, receive political expression through the policy options of the state.¹² Their acceptance drew attention to

¹¹ The general idea that politics is beyond the Church's legitimate interest is discussed in Chapters One and Two and its practical implication in indigenous political context is demonstrated in Chapters Three and Four.

¹² This point is developed in discussion in 'Voices of Nineteenth Century Protest' in Chapters Three and Four and 'The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tenison Woods' in Chapter Three.

the logical inconsistency of the position that would understate the religious significance of political decisions.

The 1960s marked a turning point in approach for reasons both within and outside the Church. From this time onwards a more consistent and unequivocal support for indigenous aspirations has characterised Church thinking. The Second Vatican Council (1962–1965) was a meeting of the world's bishops convened by John XXIII, which among other outcomes reappraised the Church's understanding of its relationship with the wider community, including the body politic. Furthermore, as the secular political process began to question racism and began to place responses to it on the political agenda, a context emerged for the Church to reassess its interpretation of the indigenous predicament. An environment more receptive to the Church's advocacy of its ideas was developing and by the 1980s reconciliation, as a religious notion, and which the Church encouraged on to the Australian political agenda with the express approval of John Paul II, had become entrenched in the popular consciousness.

In New Zealand, a comparatively more ready political acceptance of reconciliation has seen the goal less vocally advocated by the Church. Once the secular political process had shifted the parameters of debate, the Australasian Churches began to reconsider the position of indigenous peoples and to develop a more forceful application of the Holy See's increasingly frequent repudiation of racism. The Churches of both countries joined the secular challenges to prejudice and discrimination. Although this was required by the Second Vatican Council's attention to the relationship between religious ends and political means, the changing secular environment was a significant factor for the Church, as it was for the Anglican, Methodist, Presbyterian and Uniting Churches who joined the

growing secular interest in addressing indigenous grievance and challenging discrimination and marginalisation.

The propriety of the Church's interest in discrimination against indigenous peoples arises from the view that the inviolable dignity of the human person precludes racism. Racism is sinful because it undermines the self-determination that the Church teaches belongs to every person, both as an individual and as a member of an ethnic group.¹³ It compromises human unity, and denies individuals and groups the ability to share in the common good of the whole community. The extent to which the Church has attended to the political implications of this view has tended to be a function of the interpretation of the proper relationship between the Church and secular society's decision-making processes. In New Zealand the Church's response to the impact on Maori of British colonisation reflected the contradictory notions of passivity to government authority and the preservation of language and culture. The Church did not acknowledge that the government's intent conflicted with cultural and linguistic preservation. While the Church could teach the sin of racism, it could not challenge it when it did not acknowledge its existence.

In New Zealand, the Treaty of Waitangi provides a political context around which the Church has been able to focus its interest in the advancement of Maori aspirations. Significantly, the Treaty has provided a political framework for reconciliation and for the Bolger (1990-1997), Shipley (1997-1999) and Clark (1999-) governments to say 'sorry'.¹⁴ Yet in its enthusiasm to see the political pursuit of religious ideals, the Church

¹³ This point is emphasised in the section 'Human Rights and Racism' in Chapter One.

¹⁴ The Treaty of Waitangi, including its relationship to reconciliation, is extensively discussed in Chapter Seven.

has been inattentive to the limitations of the popular political bicultural¹⁵ discourse, which has weakened the intellectual substance with which it has presented its case in the public arena.

The absence of such a clear political framework for reconciliation in Australia, at least in part, explains the greater attention that the Australian Church has paid to the issue. In Australia during the last ten years most bishops individually and all bishops collectively have identified and endorsed a need for reconciliation between black and white Australia. Numerous clergy, religious and lay people have also become part of what is now a widespread community movement.¹⁶

Structure

Chapter One argues that the Church's social teaching inescapably links the political and religious dimensions of human society and that from that social teaching there arises a social mission. It is demonstrated in later chapters that that social mission can be given effect only when an understanding of the magisterium combines with prudent political judgement and analysis to allow the magisterium to be expressed in secular context. Chapter One also outlines the Church's understanding of its levels of teaching authority so that appropriate weight can be given to Church documents cited in later chapters.

Chapter Two examines the connection between the religious and public realms and argues that while the magisterium establishes that religious goals can properly require political means, because human law must conform to the natural law, there are alternative

¹⁵ Biculturalism, its limitations and enthusiastic, sometimes uncritical embracing by the Church is a recurring theme in Chapter Seven. It is concerned with accommodating and respecting cultural difference in power relationships in institutional arrangement and with relationships among individuals in institutional settings. It can also refer to a 'bicultural' individual – a person who is equally competent in two different cultural settings.

¹⁶ The emergence of reconciliation as a framework for dealing with political questions about indigenous relationships in Australia is discussed in Chapter Five. Reconciliation is discussed in Chapter Six as the context for religious activism in the Australian political arena.

inconsistent interpretations that have informed Church practice. Catholic responses to specific indigenous policy issues are considered against that magisterial authority in later chapters.

Chapters Three and Four consider reasons for the common, but not universal, inconsistency of magisterial thought with missionary practice in both New Zealand and Australia prior to the Second Vatican Council. It is argued that the Churches in Australia and New Zealand were inhibited from giving secular expression to religious principle because prevailing secular thought and practice was allowed undue influence over the Church. The Church's conception of itself as an institution 'in' but not 'of' this world, with a duty to proclaim a constant truth, was not always reflected in practice.

Chapter Five establishes that in Australia political developments beginning in the 1960s shifted the parameters of secular indigenous policy debate to create a context that was more conducive to the articulation of religious principle that might have positive political implications for indigenous Australians. The secular placing of indigenous aspiration on the political agenda occurred at the time of the Second Vatican Council, which emphasised the relevance of Catholic thought to secular life and actively encouraged its public expression. The Church therefore became willing to present its religious principles in secular context to the body politic.

Chapter Six shows that this willingness led to a religious activism in the secular realm, which became most pronounced in the context of native title and reconciliation debates during the 1990s.

Chapter Seven draws a contrast between this religious activism inspired by the magisterium to the more politically inspired activism of many New Zealand Catholics

who, while influenced by secular fashion, drew on the name of the Church to support their aspirations for Maori. This activism contrasted with the religiously authentic positions taken by the New Zealand Catholic hierarchy in response to the emphases of the Second Vatican Council. But, the hierarchy's stance was also, as in Australia, partly in response to a change in the political climate; a result of which was that Catholic thought on the rights of indigenous peoples no longer occupied the periphery of secular thought but could now be located within a broad mainstream which more readily admitted a plurality of views on indigenous aspiration.

Chapter Eight states the conclusions to the questions asked in the Introduction and addressed in the body of this thesis.

CHAPTER ONE

The Church's Teaching Mission and Teaching Authority

Introduction

The Church's social teaching inescapably links the political and religious dimensions of human society. When human law undermines the natural law there are both religious and political issues at stake. The two notions of law particularly emphasise the significance of the Church's teachings on racism to secular political choices, teachings that indeed require political context to be given the fullest expression. From the social teaching arises a social mission. The implementation of that mission requires an understanding, but not an uncritical acceptance of the magisterium, combined with prudent political judgement and analysis. Prudent political judgement requires an awareness of how the body politic might receive and engage with the language of religious metaphor and awareness that certain styles of expression, particularly the co-option of purely secular political ideas can impede a differentiation of the Church from a secular lobby group.

The Church's own understanding of its levels of teaching authority is important because it establishes the appropriate weight to be given to the various documents and comments of those who speak or write in the name of the Church. An understanding of teaching authority allows it to be shown in later chapters that where there has been an understanding, but not an uncritical acceptance of the magisterium, combined with prudent political judgement and analysis, the Church has been able to identify relevant political issues, which in turn permits the magisterium to be expressed in secular context. It is also shown in later chapters that where these factors have been absent there has been

a tendency for secular thought and context to compromise the religious authenticity of Catholic theology.

The Teaching Mission and ‘Discipleship’ of Jesus Christ

The Roman Catholic Church claims a teaching authority from Jesus Christ.¹

Go, then to all peoples everywhere and make them my disciples... and teach them to obey everything I have commanded you.²

This admonition has been variously interpreted and applied in different political, social and cultural contexts since the Church’s foundation. The interpretation of the political implications of its ‘discipleship’ is influenced by its understanding of its competence as a political actor, the political preferences and judgements of its leadership, and its relationship with secular society. In the case of indigenous interests in Australia and New Zealand, the political ease with which it can contribute to public debate has also been a factor in how the Church has expressed its ‘discipleship’ in political affairs. A broadening of focus from religion as a matter of private conscience to a consideration of social sin has further provided a theoretical context which more readily admits the religious propriety of a public ‘discipleship’.

While the Church interprets the ‘discipleship’ of Jesus Christ as having political implications, these implications do not extend to identifying policy prescriptions, supporting particular political parties, or instructing members how to vote. Indeed, in the pluralist democracies of Australasia an organisation does not need openly to support a political party, or to seek public office itself in order to have political influence. Instead,

¹ Pius XII, *Humani Generis* (Vatican City, 1950: 18 [cited 6 September 2002]); available from http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_12081950_humani-generis_en.html. and John Paul II, *The Code of Canon Law*. London: Collins Liturgical Publications, 1983, 747.

² The Gospel According to Matthew, *Good News Bible: Today’s English Version*. Chapter 28: 19-20.

it is the strength of the message, the quality of its presentation, and the lobbying ability of its presenters that is important.

The Church therefore sees its role as publicly promoting its values with the intention that they inform the thought and actions of political actors and thus influence the political order. It is as the interpreter of a moral code, rather than as a prescriber of policy, that the Church legitimises its interest in influencing political decisions.³ The Church claims moral and religious authority, not expertise in politics and government. It holds that its moral and political values ought to be the basis of law and policy, but admits that a variety of laws and policies could equally well express those values. These distinctions and the Church's positioning of itself arise from Thomas Aquinas's⁴ categorisation of law, the purpose of which is the common good.⁵

For Aquinas there were four categories of law: eternal, divine, natural and human. The eternal law, he maintained, is God's eternal plan. It is the government of the universe by Divine reason, a reason which is not subject to time and therefore 'eternal'. The natural law permits the human discernment of good and evil which in turn allows human participation in the eternal law. As communities require law to promote orderly government, human reason with its ability to discern good from evil, establishes human

³ Paul VI, *Octogesima Adveniens* (1971: 4 [cited 4 September 2002]); available from <http://www.osjspm.org/cst/oa.htm>.

The Second Vatican Council, *Gaudium et Spes* (Vatican City, 1965: 42 [cited 15 March 1998]); available from <http://www.cin.org/v2modwor.html>.

⁴ Thomas Aquinas was an Italian priest and theologian born in 1225. He remains one of the more influential Catholic theologians and philosophers.

⁵ Thomas Aquinas, *Summa Theologica* [cited 6 October 2002]; available from <http://www.newadvent.org/summa/209002.htm>.

law. Divine law arises from the belief in eternal life, and is God's direction towards that eternal ending. It is necessary because human law can not direct interior acts, nor can human law guarantee that it will avoid evil.⁶

Although the Second Vatican Council encouraged the payment of greater attention to the scriptural foundations of moral theology,⁷ this was not a dismissal of Aquinas's treatment of the natural law, which remains an important informing principle of Catholic social thought. Catholic expressions of support for the rights of indigenous peoples in Australia and New Zealand have been influenced by conceptions of the common good. For Aquinas the common good means all the preconditions for the achievement, by each individual, of his or her own individual good. The common good therefore exists over and above the aggregate of the good of the individuals that constitute the community. The good of the community overrides the good of the individual⁸ because

the supreme good, namely God, is the common good, since the good of all things depends on him [and]... all things are directed to one good, God.⁹

Further, because God is the sovereign good 'it belongs to him to make all things best' and that it is better

that the good bestowed on someone should be common to many... since the common good is always considered more godlike than the good of one only.¹⁰

The Teaching Mission and the Political Order

Since the boundaries between the religious and the political can be difficult to discern, the Church risks appearing a political lobby group rather than a religious missionary

⁶ Ibid.

⁷ The Second Vatican Council, *Optatam Totius* (Vatican City, 1965: 16 [cited 26 September 2002]); available from <http://www.cin.org/v2priest.html>.

⁸ Thomas Aquinas, *On the Truth of the Catholic Faith: Summa Contra Gentiles*. Garden City, N.Y: Image Books, 1955. Bk 3b Ch 69.

⁹ Ibid. Bk. 3a Ch. 7.

¹⁰ Ibid. Bk. 3b Ch 69.

group unless the distinctions between the personal opinions of Church officials and the Church's magisterium are identified and understood. The Church insists that those whom it makes competent to speak publicly for it on matters of political interest do so in a way that recognises that no one may claim 'to appropriate the Church's authority for his opinion'.¹¹ This implicitly recognises that the Church's beliefs provide a variety of political possibilities. Therefore disagreement among Catholic people over preferred policy options might be properly expected. This in turn would preclude the argument that one's Christian conscience demands a particular policy choice. Further, implying only one possible policy position from a Christian perspective affronts the freedom of thought of other Christians, which is why the Church no longer attempts to control the political thought of communities. At times however, the Church has contravened this present view.

In 1965 Paul VI further clarified the proper relationship between religious objective and secular politics by explaining that Christ gave his Church no specific political mission but rather a religious one. Out of that religious mission comes

a function, a light and an energy which can serve to structure and consolidate the human community according to the divine law. As a matter of fact, when circumstances of time and place produce the need, she can and indeed should initiate activities on behalf of all men, especially those designed for the needy, such as the works of mercy and similar undertakings.¹²

So while the mission is religious in origin and purpose, Paul's view legitimises the Church's interest in political decisions and decision making.

¹¹ The Second Vatican Council, *Gaudium et Spes*, 43.

¹² *Ibid*, 42.

The Second Vatican Council document *Ad Gentes* made it further explicit that the Church has ‘no desire at all to intrude itself into the government of the earthly city.’¹³ In this remark Paul was explaining that the Church’s competence as a political actor did not extend to its having an active participation in government or to having temporal authority in its own right. Instead, he explained the relationship between the Church and the political community.

Everything We have said about the dignity of the human person, and about the human community and the profound meaning of human dignity, lays the foundation for the relationship between the Church and the world, and provides the basis for dialogue between them.¹⁴

Paul clearly was not objecting to the Church vocally presenting its values and views of the world to civil governments for incorporation into state policy because,

since the Church lives in history, she ought to scrutinize the signs of the times and interpret them in the light of the Gospel. Sharing the noblest aspirations of men and suffering when she sees them not satisfied, she wishes to help them attain their full flowering, and that is why she offers men what she possesses as her characteristic attribute: a global vision of man and of the human race.¹⁵

Nevertheless, John Paul II has strictly enforced a ban on clergy and religious seeking elected or certain appointed political office. This is because political activity of this *type* (not political activity *per se*) is the province of the laity. Members of the laity are required to pay attention to the relevant aspects of the magisterium and use its principles as a guide for the development of specific policy options.¹⁶ All members of the Church are thus required to consider their participation in the political process, at whatever level, and in whatever form, in the light of Catholic social teaching.

¹³ The Second Vatican Council, *Ad Gentes* (Vatican City, 1965, 12 [cited 14 March 1998]); available from <http://www.cin.org/v2miss.html>.

¹⁴ The Second Vatican Council, *Gaudium et Spes*, 40.

¹⁵ Paul VI, *Populorum Progressio* (Vatican City, 1967: 13 [cited 2 March 1998]); available from <http://www.ewtn.com/library/ENCYC/P6DEVELO.TXT>.

¹⁶ The Second Vatican Council, *Gaudium et Spes*, 43.

The clergy's responsibility to teach by example, to ensure that Church members are instructed in the social teachings of the Church, and in the Church's commitment to justice,¹⁷ gives it a religious platform from which to exert considerable political influence. This is especially so within the pluralist democracies of Australia and New Zealand, for example, which have an important tradition of public participation in the political process. Furthermore, justice has political implications because it is necessarily given expression through human law. However, human law is based on a morality which is 'never neutral',¹⁸ which means that justice can not be guaranteed and competition between moralities must be resolved through a political process.

Clerical influence stops short of instructing people how to vote or whether to join or not to join particular political parties, but it does sometimes remain a motivating force for Catholic participation in lobby groups seeking to influence the policy development process in Australia and New Zealand. The tradition of Catholic participation in this type of political activity was given greater emphasis by the Second Vatican Council,¹⁹ which encouraged the Episcopal Conferences of both countries to pay greater attention to the interests and rights of indigenous peoples.

On the one hand the Church must not overlook its self-identified responsibilities by refraining from comment when the political order acts contrary to its thinking. On the other hand, the Church must be cautious in its response to political events for fear that it reduce itself to a political lobby group. The Church considers that its religious mission

¹⁷ John Paul II, *The Code of Canon Law*, 528.

¹⁸ Jim Consedine, "Morality and the Law. The Relationship between Restorative Justice and the Common Good", The Neil Williamson Memorial Lecture, Christchurch, 11 June 1998.

¹⁹ The Second Vatican Council, *Gaudium et Spes*, 43.

would be compromised by the latter, just as it is compromised when the political implications of its mission are overlooked altogether.

Peter Cullinane,²⁰ Bishop of Palmerston North, comments by way of explanation:

The Church cannot be committed to particular programmes in the same way as it is committed to the kingdom... But this is not to say the Church shouldn't be committed to particular historically conditioned programmes of change. Just the contrary: the Church's activities on behalf of justice, peace, development and mercy are the very language by which it carries out its mission of being... a sign that human beings really do have a future and a destiny.... Without a practical commitment to the deeds of justice and human development, the Church could not be a sign of that destiny and would not be fulfilling its own essential mission.²¹

For the Church, Cullinane's remarks mean that

in obedience to the Gospel it [the Church] attempts not merely to proclaim principles of Christian social teaching and of the natural law. It also tries to apply these principles to real and oppressing social issues... in this way the Church shows its concern for the real life of people and contributes to the building of a just society.²²

It has been argued that for the laity, this means that

we can and should start or contribute to a process for change and a building of structures of grace in all spheres of society and life.²³

In its revised *Code of Canon Law* in 1983 the Church reaffirmed that the teaching mission it claims from Jesus Christ gives it legitimacy as a political actor.

It is to the Church that Christ the Lord entrusted the deposit of faith, so that... it might conscientiously guard revealed truth, more intimately penetrate it, and faithfully proclaim and expound it.²⁴

²⁰ Peter Cullinane became Bishop of Palmerston North in 1980. He is President of the New Zealand Catholic Bishops' Conference, which has regularly argued for fuller recognition of the Treaty of Waitangi and in support of Maori aspirations generally. (<http://www.catholic.org.nz/bishopsF.htm>). 4 September 2002.

²¹ Peter Cullinane, "Social Sin, Sinful Structures", Speech to the Pacific Partnership for Human Development Assembly, Auckland, 3-11 December 1988, 12.

²² Australian Catholic Bishops' Conference, "The Catholic Commission for Justice and Peace", Statement of the Bishops' Central Commission, March 28, 1980.

²³ Ruth Smithies, *Ten Steps Towards Bicultural Action: A Handbook on Partnership in Aotearoa-New Zealand*. Wellington: The Catholic Commission for Justice, Peace and Development, 1990, 8.

²⁴ John Paul II, *The Code of Canon Law*, 747, 1.

It therefore follows that the Church would claim that it has

the right always and everywhere to proclaim moral principles, even in respect of the social order, and to make judgements about any human matter in so far as this is required by fundamental human rights or the salvation of souls.²⁵

So the modern Roman Catholic Church claims that it has from Jesus Christ a religious but not a political mission. Nevertheless, it is argued that this religious mission requires it to take an interest and proclaim its beliefs in the secular political realm. This interest and proclamation is motivated by a desire to see human law, which is established within the secular political community, conform to the natural law. Therefore an absolute line of demarcation between the purely religious and the purely political is difficult to establish, and indeed unnecessary in the public sphere. James Durning's²⁶ attempt to draw such a line with respect to the Treaty of Waitangi demonstrates the difficulty of making a rigid distinction, and the absence of any need to do so.

Already there are controversies. They stem from the application of the Treaty of Waitangi to today's New Zealand. They are political. It belongs to the government and the Waitangi Tribunal and as a last recourse, the law to solve them. It is ill advised for the Church to weigh in on these. Its particular work is reconciliation, Christ in us revealing all things to the Father.²⁷

The Church has repeatedly 'weighed in' on these political matters. That is justified when matters of religious principle have been associated with political decisions. It is through contributing religious ideas to political debate that the Church carries out its work of reconciliation. Whether or not the Church should enter a particular debate needs to be determined by a consideration of its purpose, which is religious and not purely political. But a strictly defined line of demarcation between the religious and the political is not

²⁵ Ibid., 747, 2.

²⁶ James Durning was a priest of the Society of Mary. He was an experienced missionary to Maori communities and has written extensively and sympathetically, although often with limited critical analysis, on Maori rights and aspiration.

²⁷ J. Durning, "Treaty of Waitangi Discussion", Unpublished Paper. MAW. ACC 202. 1985, 7.

necessarily useful. Durning's distinction between religion and politics is weak. It is not credible to imply that because something has religious implications it is only a religious issue, and not also a political one. For example:

The Church should combat a charge some make of apartheid because of [its] efforts on the part of groups of Maoris who want to try and develop a Maori version of life and of the Christian faith, - such initiatives as the Maori school in Auckland that teaches everything in Maori, proposals for Maori colleges and universities, the development of a Maori theology. This is a right of Maoris.²⁸

While the Church may teach these as religious rights, and by promoting them Durning was teaching his faith, he was unavoidably entering political debate. However, Durning's religious motivation justified his action. For the religious rights Durning spoke of to be realised, then they first had to be accepted by the political community as political rights. The propriety of the Church entering public debate is determined by the Church's motivation, not the political nature of a subject.

Social Application of the Teaching Mission

The social application of the Church's teaching mission is most easily given full public expression when it is promoted within the context of a concrete secular political issue. This self-identified mission is largely informed by the principles of Catholic social teaching which arise from the scriptures and their interpretation by theologians, successive popes and the College of Bishops. Among the more significant themes of Catholic social teaching for their preclusion of racial discrimination are the notions of justice for all people, human dignity, human rights and the common good.

Catholic social teaching assumes that

it is by our faith that we are put right with God; it is by our confession that we are saved.²⁹

²⁸ Ibid., 7.

²⁹ Paul's Letter to the Romans, *Good News Bible: Today's English Version*. London: 1981, Chapter 10: 10.

Confession refers to the expression of faith and to the avoidance of sin. In the form of modern social teaching this confession was a response to the historical context of modernity and began in 1891 with Leo XIII's encyclical letter *Rerum Novarum*,³⁰ which focused particularly on issues of human dignity, rights and obligations. *Rerum Novarum* developed these existing principles of Catholic moral theology in the context of the modern world. It was a world in which both family and society had been disrupted by the industrial revolution and the growth of a capitalist class seemingly indifferent to the well-being of workers.³¹ In *Rerum Novarum*, which has helped inspire the work of his successors, Leo argued that dignity of work established the right to productive work and fair wages. In developing the principle that the economy exists to serve people, not the reverse, Leo defended economic initiative and the right to private property. His dictum arose from the much wider belief in justice for all people, based on the view that the purpose of Jesus Christ's death and resurrection was the redemption of all.³² Justice therefore precludes racism and discrimination. Further, it requires that respect for human dignity be at the forefront of relationships between states and their peoples. The Church therefore requires those who preach in its name to emphasise its teachings on the 'dignity and freedom of the human person'. These teachings are considered 'necessary to believe and practice for the glory of God and the salvation of all.'³³ In 1965 Paul VI gave examples of those things which are to be avoided because of their violation of 'the

³⁰ Leo XIII, *Rerum Novarum* (Vatican City, 1891 [cited 12 March 1998]); available from <http://www.ewtn.com/library/ENCYC/L13RERUM.TXT>.

³¹ Gary Glenn, *Catholic Social Science Review, Volume VI* (Catholic Social Thought and the American Regime., 2001: [cited 24 September 2002]); available from <http://www.catholicsocialscientists.org>.

³² Paul's Letter to the Romans, *Good News Bible: Today's English Version*. Chapter 5: 18.

³³ John Paul II, *The Code of Canon Law*, 768, 1.

integrity of the human person’:

...whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions where men are treated as mere tools for profit, rather than as free and responsible persons; all these things and others of their like are infamies indeed.³⁴

Paul further highlighted the relevance of Catholic social teaching to political decisions affecting indigenous peoples:

... although rightful differences exist between men, the equal dignity of persons demands that a more humane and just condition of life be brought about. For excessive economic and social differences between the members of one human family or population causes scandal, and militate against social justice, equity, the dignity of the human person, as well as social and international peace.³⁵

Nevertheless, because in the Church’s view all people have the same metaphysical nature, they share an equality³⁶ based on their creation in the image and likeness of God.

Religious Mission, the Common Good, the Role of the State and Self-Determination

In 1991 John Paul II explicitly placed the Church’s social teaching within the context of its overall religious mission, which is in effect

to teach and to spread her social doctrine [which] pertains to the Church’s evangelizing mission and is an essential part of the Christian message, since this doctrine points out the direct consequences of that message in the life of society and situates daily work and struggles for justice in the context of bearing witness to Christ the Saviour. This doctrine is likewise a source of unity and peace in dealing with the conflicts which inevitably arise in social and economic life.³⁷

The common good is central to Catholic social teaching. The theological notion underpinning the Church’s attention to this concept is the belief that following humankind’s redemption by the death and resurrection of Jesus Christ, humankind

³⁴ The Second Vatican Council, *Gaudium et Spes*, 27.

³⁵ *Ibid.*, 29.

³⁶ *Ibid.*, 29. Leo XIII, *Rerum Novarum*, 57.

³⁷ John Paul II, *Centesimus Annus* (Vatican City, 1991: 5 [cited 2 March 1998]); available from <http://www.ewtn.com/library/ENCYC/JP2HUNDR.TXT>.

became one body; the body of Christ, and ‘membership of the body binds us to one another’.³⁸ In this way the good of the individual can be maintained. But if the good of the individual depends on such ‘binding’ then the common good is also important.

In his encyclical letter *Centesimus Annus*, John Paul discussed the political significance of the common good with reference to the work of Leo.

If Pope Leo XIII calls upon the State to remedy the condition of the poor in accordance with justice, he does so because of his timely awareness that the State has the duty of watching over the common good and of ensuring that every sector of social life, not excluding the economic one, contributes to achieving that good, while respecting the rightful autonomy of each sector.³⁹

The relevant question arising from *Centesimus Annus* is to what extent have the political decisions of the Australasian States met these ideals? Furthermore, to what extent have these policy choices been made with either the deliberate or consequential intention of excluding indigenous populations from the common good? Extending the common good to indigenous peoples has not always been a priority of the states concerned. At times throughout their histories Australian and New Zealand States have overtly adopted contrary policy agendas.⁴⁰ Catholic thinking on the role of the State has primarily been influenced by the work of Thomas Aquinas, who argued that human law should conform to a higher code of natural moral law. It is for this reason that when Church leaders contribute to public debate they do not

consider issues in strictly social or political terms. Instead, their answers are couched in religious concepts and metaphors, which flow from their understanding of the requirements of religious faith, their view of the Church as an institution and their conclusions about its proper relation to society at large - not purely from social analysis alone.⁴¹

³⁸ Paul’s Letter to the Ephesians, *Good News Bible: Today’s English Version*. London: 1981. Chapter 4: 25.

³⁹ John Paul II, *Centesimus Annus*, 11.

⁴⁰ See Chapters 4-8 for examples.

⁴¹ Daniel H Levine, *Religion and Politics in Latin American: The Catholic Church in Venezuela and Colombia*. Princeton, New Jersey: Princeton University Press, 1981, 10.

The Church's social thinking is also influenced by the principle of subsidiarity, which was developed by Aquinas, who believed that:

In the natural realm the individual realises his or her nature in human communities of which the state is the highest and most complete expression.⁴²

Subsidiarity maintains that it is not the State alone, which is responsible for the common good, the 'primary tenet' of which is that 'everyone in a society should be able to share in its growing quality of life'.⁴³ In Maori society for example, an iwi should be expected to take a central role in ensuring the common good of its people. However through policies that undermined and reduced the effective functioning of iwi, the State has compromised their ability to meet this responsibility. The common good can only be realised when intentional impediments to it are removed by the state. The principle of subsidiarity protects the Maori contributing to their wellbeing, because it ensures that iwi (tribes), hapu (sub-tribes), whanau (families) and individuals are not subject to negative State control. It also protects against hapu being absorbed by iwi and against whanau being absorbed by hapu, because subsidiarity requires that no community or structure should interfere with the affairs of a lower community unless that lower community is hindering the wider common good.

In 1991 John Paul II developed Leo XIII's understanding of the role of the State. Leo XIII did not however expect

the state to solve every social problem. On the contrary, he frequently insists on necessary limits to the state's intervention and on its instrumental character,

⁴² Thomas Aquinas in Alan Cameron, "Law, Justice and the State", in *Voices for Justice: Church, Law and State in New Zealand*, ed. Jonathan Boston and Alan Cameron. Palmerston North: The Dunmore Press, 1994, 51.

⁴³ Neil Vaney, "Human Rights and the Theological Tradition", Stout Research Centre Seminar on Human Rights. Victoria University of Wellington: Unpublished Conference Paper, 1998.

inasmuch as the individual, the family and society are prior to the state, and inasmuch as the state exists in order to protect their rights and not stifle them.⁴⁴

These ideals have only recently begun to have an impact on the thinking of the Australasian states in their relationships with their indigenous peoples. Traditionally these states have excluded, often intentionally, their indigenous populations from the common good. The paternalistic legislative frameworks under which these people lived and conducted their affairs has ensured that the 'rightful autonomy' which John Paul spoke of has not been upheld by the state, rather it has been obstructed.

The experience of Australian Aboriginals separated from their families is an example of a deliberate rejection by the state of the idea that the individual, family and society are prior to it. In New Zealand the Maori individual, family and society have been denied autonomy by legislation designed to alienate Maori land (*Native Land Act 1862*, *Native Land Act 1865* and *Native Land Act 1867*, for example). The 'great object' of the 1867 Act was 'the abolition of communal ownership of land'⁴⁵ A further example is the discriminatory Maori leasehold policies, which after more than a century of government procrastination and inquiries are only now being addressed. These experiences are examples of the many which indicate that in New Zealand the State has not accepted that to 'protect' Maori rights and 'not stifle them' is one of its functions.

In light of these political situations, the Church has a self-imposed duty to respond,

to wage war on misery and to struggle against injustice is to promote, along with improved conditions, the human and spiritual progress of all men, and therefore the common good of humanity.⁴⁶

⁴⁴ John Paul II, *Centesimus Annus*, 11.

⁴⁵ Chief Justice Fenton in Mason Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*. Auckland: Oxford University Press, 1998, 122.

⁴⁶ Paul VI, *Populorum Progressio*, 76.

In this extract from the encyclical letter *Populorum Progressio* Paul VI provided a concise and powerful framework for the development of societies. He also asked that the Church take a leading role in the creation of those societies, with the common good as a core value informing their policy-making priorities.

Human Rights and Racism

The importance the Church attaches to human rights and the responsibilities that correspond with these are highlighted in its claim of the right

always and everywhere to speak out and make judgements on any human matter in so far as this is required by fundamental human rights.⁴⁷

Further, the Church identifies an obligation upon every person to claim their human rights as ‘marks’ of their dignity⁴⁸ and to recognise those rights in others on the grounds that:

If God is the transcendent (beyond it) common good of society, the immanent (within it) common good of society must, therefore, be a social order which empowers or facilitates every individual in it to attain his or her own perfection... In other words, what is material (purely earthly) must be for the sake of what is spiritual (transcending the material universe), not for its own sake.⁴⁹

If the common good is to inform policy choices then human rights and responsibilities also become relevant. For the Church they became relevant to Christian relationships with non-European and non-Christian peoples with the expansion of Christian Europe in the thirteenth century. It was in this context that in 1245 Innocent IV taught that Christians could not dispossess others of property or sovereignty purely on the grounds of their being infidels:

⁴⁷ John Paul II, *The Code of Canon Law*, 747, 2.

⁴⁸ John XXIII, *Pacem in Terris* (Vatican City, 1963: 44 [cited 3 March 1998]); available from <http://www.ewtn.com/library/ENCYC/J23PACEM.TXT>.

⁴⁹ Joseph M de Torre, *Human Rights, Natural Law and Thomas Aquinas* (2000: [cited 6 October 2002]); available from <http://www.catholicsocialscientists.org/Article--deTorre--Human%20Rights.htm>.

it is not permitted to the pope or other Christians to take away the property, lordship, and jurisdiction from infidels because they possess them without sin.⁵⁰

Innocent's teaching and that of many of his successors was however overlooked by Nicholas V in the bull *Romanus Pontifex* which in 1455 exhorted King Alfonso of Portugal

to invade, search out, capture, vanquish, and subdue all Saracens and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit.⁵¹

Nicholas had 'allowed the proclamation of the Gospel to be subordinated to the designs of secular power,'⁵² as did his successor Alexander VI in his bull *Inter Caetera* promulgated in 1493. Alexander authorised King Ferdinand and Queen Isabella of Spain to acquire all lands found by them

towards the west and south, by drawing and establishing a line from the Arctic pole, namely the north, to the Antarctic pole, namely the south, no matter whether the said mainlands and islands are found and to be found in the direction of India or towards any other quarter, the said line to be distant one hundred leagues towards the west and south from any of the islands commonly known as the Azores and Cape Verde.⁵³

The bull conferred 'full and free power, authority and jurisdiction of whatever kind' provided that no 'Christian prince' had already acquired such authority.⁵⁴ In this way he disregarded Innocent IV's confirmation that infidels had the right to power, authority and

⁵⁰ Innocent IV, Commentary on *Quod Super Hiis* (1245 [cited 6 October 2002]); available from <http://faculty.cua.edu/pennington/FolgerEmpire/InnocentIV.htm>

⁵¹ Nicholas V, *Romanus Pontifex* 1455 (Vatican City, 1455: [cited 8 April 2003]); available from <http://cca2000.4t.com/bull1.htm>.

⁵² Michael Stogre, *That the World May Believe: The Development of Papal Social Thought on Aboriginal Rights*. Quebec: Editions Pauline, 1992, 69.

⁵³ Alexander VI, *Inter Caetera* (Vatican City, 1493: [cited 8 April 2003]); available from <http://www.nativeweb.org/pages/legal/indig-inter-caetera.html>

⁵⁴ Ibid.

jurisdiction. Alexander's intervention was to adjudicate a dispute over colonial expansion between Spain and Portugal, and his motivation was in part the promulgation of the Gospel. However, as history has shown that promulgation has not been complete, and indeed actions of Christian rulers have at times been antithetical to the Church's evangelical mission.

In his *In Defense of the Indians*, Bartolome de Las Casas⁵⁵ refuted claims that native South Americans had no right to own land. He was unequivocal in his expression.

Christ seeks souls not property... He who wants a large part of mankind to be such that... he may act like a ferocious executioner toward them, press them into slavery, and through them grow rich, is a despotic master, not a Christian; a son of Satan, not of God; a plunderer, not a shepherd; a person who is led by the spirit of the devil, not heaven.⁵⁶

The foremost Catholic theologian of the sixteenth century, Francisco de Vitoria⁵⁷ also supported equality for the indigenous peoples in the South American colonies of Spain and Portugal. In his *First Reflection on the Indians Lately Discovered*, published in 1532, de Vitoria maintained 'heretics' and 'barbarians' were not by reason of the divine law justifiably excluded from land ownership and that there was thus no moral justification for the seizure of indigenous land by Catholics.⁵⁸

In the encyclical letter *Pacem in Terris* John XXIII discussed the purpose of the Church's particular interest in human rights. The theological basis to the argument is that by virtue of intelligence and free will 'the human being is a person'. The person has rights and obligations which 'are universal and inviolable so they cannot in any way be

⁵⁵ Bartolome de Las Casas (1484-1566) was a priest and strong advocate for the rights of indigenous peoples. He was also noted for his vocal opposition to slavery.

⁵⁶ Bartolome de Las Casas, "Defense of the Indians", in *The Human Rights Reader*. New York. Routledge, ed. Micheline R Ishay. 1997, 69.

⁵⁷ Francisco de Vitoria was a Dominican monk and professor of theology at the University of Salamanca who challenged Spanish enslavement and exploitation of Peruvian Indians in 1536.

⁵⁸ Francisco de Vitoria, *The First Reflection on the Indians Lately Discovered* (1532: [cited 1 October 2002]); available from http://www.constitution.org/victoria/victoria_4.htm.

surrendered'.⁵⁹ The involuntary surrender of these rights to the state must therefore concern the Church. The rights which John XXIII identified are, but not necessarily exclusively,

the right to life, to bodily integrity, and to the means which are suitable for the proper development of life; these are primarily food, clothing, shelter, rest, medical care, and finally the necessary social services.⁶⁰

These rights relate to human dignity and to the common good and represent a political consequence of the religious belief in the importance of the human person, which the Church holds because

if we look upon the dignity of the human person in the light of divinely revealed truth, we cannot help but esteem it far more highly; for men are redeemed by the blood of Jesus Christ, they are by grace the children and friends of God and heirs of glory.⁶¹

Racism thus infringes human rights, and

with respect to the fundamental rights of the human person, every type of discrimination, whether social or cultural, whether based on sex, race, colour, social condition, language or religion, is to be overcome and eradicated as contrary to God's intent.⁶²

The Church's interest in the rights of indigenous peoples arises at least in part from its theological dismissal of racism as an infringement of human rights. When the Church identifies policies or practices that it deems racist or discriminatory, then it is faced with an issue that is political as well as religious. It is also faced with an opportunity to use secular political context to articulate religious principle.

⁵⁹ John XXIII, *Pacem in Terris*, 9.

⁶⁰ *Ibid.*, 11.

⁶¹ *Ibid.*, 10.

⁶² The Second Vatican Council, *Gaudium et Spes*, 29.

The origins of the Church's teachings on racism are found in the themes of creation in the image and likeness of God,⁶³ and justice and freedom from oppression. In the Exodus narrative, for example, God delivers the Israelites from Egyptian oppression and establishes the requirement: 'Do not illtreat or oppress a foreigner; remember that you were foreigners in Egypt'.⁶⁴ The point is further developed in Leviticus.

Do not illtreat foreigners who are living in your land. Treat them as you would a fellow-Israelite, and love them as you love yourselves. Remember that you were once foreigners in the land of Egypt.⁶⁵

In Deuteronomy the position is expressed, 'God's curse on anyone who deprives foreigners, orphans, and widows of their rights.'⁶⁶

Racial prejudice, discrimination and ideals of cultural superiority have caused significant suffering among the indigenous populations of Australia and New Zealand. This has only latterly begun to be widely and effectively challenged in both countries. The human suffering which stems from racism is of concern to the Church because 'God in Christ is present in suffering people'.⁶⁷ This ontological juxtaposition makes suffering more than just a political or ethical question, 'it is also a matter of Christology - that is of how we understand the incarnate God'.⁶⁸ This understanding is based on the remark attributed to Jesus: 'in as much as you did it unto one of these the least of thy brethren, you did it unto me.'⁶⁹ The New Testament establishes that racism is 'foreign to the mind of Christ'.⁷⁰

⁶³ The Book of Genesis, *Good News Bible: Today's English Version*. London: 1981. Chapter 2: 7.

⁶⁴ The Book of Exodus, *Good News Bible: Today's English Version*. London: 1981. Chapter 22: 21.

⁶⁵ The Book of Leviticus, *Good News Bible: Today's English Version*. London: 1981. Chapter 19: 33.

⁶⁶ The Book of Deuteronomy, *Good News Bible: Today's English Version*. London: 1981. Chapter 27: 19.

⁶⁷ Graeme Garrett, "A Place of One's Own: Reflections on a Theology of Space", *St Mark's Review*, 1993, 4.

⁶⁸ *Ibid.*, 4.

⁶⁹ The Gospel According to Matthew, *Good News Bible: Today's English Version*. Chapter 25: 40.

⁷⁰ Australian Catholic Bishops' Conference, "Racism", Pastoral Letter, August 1971, 1.

Racism is ‘foreign to the mind of Christ’ because it is a barrier to a proper relationship with God.

If someone says he loves God, but hates his brother, he is a liar. For he cannot love God, whom he has not seen, if he does not love his brother whom he has seen.⁷¹

Racism is also sinful because it denies the human unity that the Church teaches. It conflicts with the Catholic understanding of the nature of humanity. ‘There are no longer slaves and free, but all have been made one in Jesus Christ’.⁷²

Human unity cannot exist in an environment in which prejudice and discrimination are present. Therefore the notions of superiority which early European settlers brought to Australia and to New Zealand, and which arguably still exist among some of their descendants, are inherently unchristian.

Encyclical letters of Paul VI and John Paul II have reinforced the view that racism is beyond the Church’s understanding of appropriate human relationships, since these imply that obstructing the existence and development of racial minorities violates justice.⁷³ In 1971 – the United Nation’s International Year for Action to Combat Racism and Racial Discrimination - Paul chose ‘Every Man Is My Brother’⁷⁴ as the title of his World Day of Peace address.⁷⁵ In New Zealand the United Nation’s campaign was endorsed in the

⁷¹ The First Letter of John, *Good News Bible: Today’s English Version*. London: 1981. Chapter 4: 20.

⁷² Paul’s Letter to the Colossians, *Good News Bible: Today’s English Version*. London: 1981. Chapter 3: 11.

⁷³ John XXIII, *Pacem in Terris*, 44.

⁷⁴ Paul VI, *Every Man Is My Brother. Message of His Holiness Pope Paul VI for the Celebration of the World Day of Peace. The First Message: Invitation to Observe a “World Day of Peace” on 1st January of Each New Year* (Vatican City, 1 January 1971: [cited 6 October 2002]); available from <http://www.fju.edu.tw/homepage2/peace/1968e.htm>.

⁷⁵ The World Day of Peace was initiated by Paul VI in 1968 as an annual event to be repeated on 1 January each year ‘as a hope and as a promise, at the beginning of the calendar which measures and outlines the path of human life in time, that Peace with its just and beneficent equilibrium may dominate the development of events to come’ Paul VI, *Message of His Holiness Pope Paul VI for the O, 1 January 1968* (Vatican City, 1 January 1968: [cited 6 October 2002]; available from http://www.vatican.va/holy_father/paul_vi/messages/peace/documents/hf_p-vi_mes_19671208_i-world-day-for-peace_en.html

Society of Mary's⁷⁶ monthly publication the *Marist Messenger*,⁷⁷ which commented that the campaign's

high aim is to instil into the life of each individual a firm resolve to show every human person the esteem, respect and love he deserves as a member of the human family regardless of his race or colour... this attitude... is that of Christ and of his apostles.⁷⁸

The Australian Church responded with a pastoral letter in 1972 that reaffirmed the basic principles of the Church's position.⁷⁹

In 1988 the Pontifical Council, *Justitia et Pax*,⁸⁰ published *The Church and Racism: Towards a More Fraternal Society*. This was a comprehensive dismissal of the ideology⁸¹ and practice of racism, which was reaffirmed in 2001 in *The Church and Racism: An Introductory Update*⁸² in 2001. The expression 'fraternal society' encapsulated the key themes of Catholic philosophy as they apply to the purpose and functions of the state. That is, to support a society in which individuals and groups of individuals are respected,

⁷⁶ The Society of Mary is a religious congregation of brothers and priests founded in France by Father Jean Claude Colin and approved by Pope Gregory XVI in 1836 on the condition that it carry out missionary work in the South Pacific. In New Zealand the Society has had extensive involvement in missionary work among Maori Catholic communities.

⁷⁷ The *Marist Messenger* is published each month by the Society of Mary in New Zealand. It is among the more prominent New Zealand Catholic publications. The *Marist Messenger* adopted a vocal interest in Maori people and their place in wider society during the 1960s and 1970s in particular. While its tone was never overtly racist it was often patronising and understated the significance of discrimination towards Maori.

⁷⁸ "Pope Paul is against Racism", *The Marist Messenger* February 1971, 5.

⁷⁹ Australian Catholic Bishops' Conference, "Aborigines", Pastoral Letter: August 1972.

⁸⁰ *Justitia et Pax*, or the Pontifical Council for Justice and Peace was established by Paul VI in 1967 in response to the Second Vatican Council's proposal that a body be created 'to stimulate the Catholic Community to foster progress in needy regions and social justice on the international scene The Second Vatican Council, *Gaudium et Spes*, 90. The Council's main responsibility is to 'engage in action oriented studies based on the... social teaching of the Church' particularly in the areas of justice, peace and human rights (Pontifical Council for Justice and Peace, *Pontifical Council for Justice and Peace* (Vatican City: [cited 8 October 2002]); available from http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_pro_20011004_en.html).

⁸¹ Ideology refers to a particular set of beliefs which in the context of this thesis inform the religious or political practice of groups of actors.

⁸² Pontifical Council for Justice and Peace, *The Church and Racism: An Introductory Update* (Vatican City, 2001: [cited 6 October 2002]); available from <http://www.ewtn.com/library/curia/pcjpcjchra.htm>.

dignified and allowed to be responsible for themselves, a society free of the discrimination and prejudice that has been present in New Zealand and Australia since white settlement, because

faith in the one God, Creator and Redeemer of all humankind made in his image and likeness, constitutes the absolute and inescapable negation of any racist ideologies.⁸³

The Church and Racism included the argument that the use of science to develop a theology of racism in the eighteenth century was in opposition to Church thinking. Racism against aboriginal peoples and discrimination resulting from ethnocentricity were specifically condemned, as was institutionalised racism towards ethnic minorities.

In his World Day of Peace Message *Respect for Minorities* in 1989 John Paul addressed a feature of racist practice which continues to have significant impact in Australia in particular, but also in New Zealand, where

some experience separation or exclusion... They are confronted by barriers that keep them apart [from wider society].⁸⁴

In *Respect for Minorities*, John Paul also addressed the topic of the ‘unity of the human race’. Although he did not introduce any new teachings in his statement, his comments had particular relevance for Australia as it ended its bicentennial year and for New Zealand, as its sesquicentennial commemorations approached.

The unity of the human family requires that the whole of humanity, beyond its ethnic, national, cultural and religious differences, should form a community that is free from discrimination between people and that strives for reciprocal solidarity. Unity also requires that differences between the members of the human family should be used to strengthen unity, rather than serve as a cause of division.⁸⁵

⁸³ Pontifical Council for Justice and Peace, *The Church and Racism: Towards a More Fraternal Society* Vatican City: Pontifical Council for Justice and Peace, 1988, 19.

⁸⁴ John Paul II, “The Pope’s New Year Message. Respect for Minorities”, in *The Tablet* 31 December 1988, 1521.

⁸⁵ *Ibid.*, 1521.

There are important implications of this teaching for both contemporary public policy debates, and for assessing earlier policy options and the role that the Church played, or did not play, in their implementation. John Paul has clearly affirmed the Church's position that under no circumstances may prejudice, discrimination or notions of cultural superiority inform the policy positions of any legislative authority, or underlie the implementation of any policy.⁸⁶ From this John Paul concluded that the responsibility to uphold human diversity belongs to the institutions of state as well as to every individual within the community.⁸⁷

Leonard Faulkner,⁸⁸ Archbishop of Adelaide, applied John Paul's teaching by declaring:

We who believe in Jesus as God's revelation, are called to break down all the walls that divide people along lines of race, gender, nationality, income, age or anything else. We are people who are committed to the divine will of peace on earth.⁸⁹

Faulkner went on to discuss the implications of this teaching for the relationships between indigenous and non-indigenous Australians, and stressed the special obligation that the Church imposes on its non-indigenous members in Australia.

The Church's unequivocal repudiation of racism prompted the chairman of the Australian Catholic Social Welfare Commission, Kevin Manning,⁹⁰ Bishop of Parramatta, to suggest that 'each of us needs to be more aware and to take personal responsibility for

⁸⁶ Ibid., 1521-1523.

⁸⁷ Ibid., 1521-1523.

⁸⁸ Leonard Faulkner became Bishop of Townsville in 1967 and was Archbishop of Adelaide from 1985 until his retirement in 2001 (<http://www.catholic-hierarchy.org/bishop/bfaulkner.html>, 4 September 2002). Faulkner has publicly drawn attention to Church teachings on racism and the rights of indigenous peoples.

⁸⁹ Leonard A Faulkner, "The Year of Indigenous Peoples, Christians and Reconciliation". Pastoral Letter, December 8, 1993, 1-2.

⁹⁰ Kevin Manning became Bishop of Armidale in 1991 and was transferred to Parramatta in 1997. He is currently Chairman of the Australian Catholic Social Justice Council (<http://www.parra.catholic.org.au/Bishop.htm>, 4 September 2002). Under Manning's leadership the Australian Catholic Social Justice Council has regularly applied Church teachings to the rights of indigenous peoples.

confronting racism'.⁹¹ Manning also noted the resentment of some white Australians towards recent attempts to recognise Aboriginal rights and interests and cautions against the 'ill informed and irresponsible'.⁹² In 1999 Manning's concern that individual Catholics be actively involved in confronting racism was given endorsement at a wider level within the Church. The *Instrumentum Laboris*⁹³ for the Synod of Bishops for Oceania⁹⁴ considered in some depth the existence of racism in Oceania and made specific reference to the attempts to address issues of land ownership in Australia and in New Zealand. The document suggested that all Catholics, not just those of indigenous origin, have a role to play in seeing aboriginal interests addressed.

Minority groups often lack the economic or political power to change their lives sufficiently or even to stand up for their rights. Only when they are supported by the solidarity of other groups is a voice heard... all Catholics need to be constantly alert to the elements of racism in society.⁹⁵

The document also noted that racism is 'sometimes expressed in hidden and subtle forms'.⁹⁶ This recognises that while overt racism, certainly at a public policy level, may have diminished, a complete absence of racism does not necessarily follow. For the Church, racism remains as insidious in its hidden and subtle forms as it does when transparent. In 2001 Diarmuid Martin,⁹⁷ an archbishop and Head of the Holy See's

⁹¹ Kevin Manning, "Racism a Blight on Society", Media Release, Sydney, 11 March 1996, 1.

⁹² Ibid., 1.

⁹³ The *Instrumentum Laboris* of a Synod of Bishops is the Synod's working document. It is not a part of the magisterium because it is not a final document, but it is a collective theologically informed expression of the bishops' preliminary views released with the approval of the Pope.

⁹⁴ The Synod of Bishops for Oceania was a meeting of the region's bishops called by John Paul II to consider the Church's work in the Oceania region.

⁹⁵ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*. Vatican: 1998, 17.

⁹⁶ Ibid, 17.

⁹⁷ Diarmuid Martin is Permanent Observer of the Holy See to the United Nations' Office in Geneva. He is a former Secretary of the Pontifical Council for Justice and Peace.

delegation to the United Nations' Conference Against Racism, noted that 'racism is a sin. It is fundamentally a lie, a concept deliberately invented to create division in humanity'.⁹⁸ So on the basis of scriptural authority and on the traditions of the Church, Australia's *Social Justice Sunday Statement*,⁹⁹ issued to mark the centenary of the death of Australia's first bishop John Polding,¹⁰⁰ observed that 'racism is the most insidious and oppressive form of prejudice and discrimination'.¹⁰¹ Further chapters will demonstrate that broadly speaking the existence of racism in secular society has elicited one of two responses from the Church. When it has been accepted that the pursuit of religious objectives invariably requires political means, racially discriminatory policy choices in the public sphere will have been strongly challenged. On the other hand a rejection or limiting interpretation of the relationship between political means and a religious end, or where the influence of secular political and social beliefs have existed to the extent that the Church has not seen its teachings compromised, the Church's advocacy of its magisterium has not been prominent.

The Teaching Authority within the Church

The Church contributes to political debate as a function of the teaching mission it claims from Jesus Christ. It is from this teaching mission that the Church develops its understanding of both the content and application of its social mission. The Church has ordered hierarchical levels of teaching authority with clearly defined roles for the pope, bishops, clergy, religious and lay people in establishing and giving public promotion to

⁹⁸ Diarmuid Martin, *Individual and Collective Conversion of Hearts* Vatican City, 2001 [cited 6 October 2002]; available from <http://www.ewtn.com/library/curia/statraci.htm>.

⁹⁹ The Social Justice Sunday Statement is an annual statement of the Australian Catholic Social Justice Council. Each year's statement addresses a different issue of concern to the Council.

¹⁰⁰ John Polding was an English Benedictine monk and Australia's first bishop. He died in 1877 after spending forty years in Australia where he developed a sometimes unpopular reputation for his outspoken advocacy for indigenous Australians.

¹⁰¹ Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 1978, 4.

its magisterium. The highest level of authority arises from what is considered the explicitly stated infallible revelations of Jesus Christ, expressed by the Pope either on his own or in communion with the College of Bishops.¹⁰² At the lowest but still politically important level, lay members of the Church have the role of ‘bearing witness’ to their faith in the course of their everyday lives.¹⁰³ At this level political biases are potentially significant as they can influence how people apply the Church’s social thinking.

The Church believes that its magisterium was

committed to the apostles by Christ and is now possessed and exercised by their legitimate successors, the College of Bishops¹⁰⁴

in union with the pope.¹⁰⁵ This dual emphasis on tradition as well as scripture sets the Roman Catholic Church apart from those Christian faiths which draw exclusively on scripture to develop theological understanding. The Catholic Church understands tradition as the preservation of apostolic preaching ‘in a continuous line of succession [i.e bishops] until the end of time’.¹⁰⁶ The rationale for this Catholic view is that although it believes that Jesus Christ was the ‘fullness of all Revelation,’ revelation

has not been made completely explicit; it remains for the Christian faith gradually to grasp its full significance over the course of the centuries.¹⁰⁷

Therefore the Church maintains that

¹⁰² J.R. Lerch, “Teaching Authority of the Church”, in *New Catholic Encyclopedia, Volume VIII* Washington, D.C.: The Catholic University of America, 1967, 959.

¹⁰³ John Paul II, *The Code of Canon Law*, 225.

¹⁰⁴ The Gospel According to Matthew, *Good News Bible: Today's English Version*. Chapter 28: 18-20.

¹⁰⁵ The personification of the magisterium in the hierarchy, and the pope in particular, is a nineteenth century development. Traditionally the term ‘had the general sense of being a *magister*, or a greater person in charge of anything, as contrasted with a *minister*, or lesser person. This could apply to different areas of responsibility and competence, including that of teaching, and for centuries in the Church the general connotation of responsibility, or oversight, and its application to teaching continued in use side by side’. John Mahoney. *The Making of Moral Theology: A study of the Roman Catholic Tradition*. Oxford: Clarendon Press. 1987, 116-117.

¹⁰⁶ John Paul II, *Catechism of the Catholic Church Apostolic Constitution Fidei Depositum* Vatican City, 1983 [cited 6 October 2002]. Available from <http://www.christusrex.org/www1/CDHN/ccc.html>.

¹⁰⁷ Ibid.

Sacred Scripture is the speech of God as it is put down in writing under the breath of the Holy Spirit¹⁰⁸

and that

Holy Tradition transmits in its entirety the Word of God which has been entrusted to the apostles by Christ the Lord and the Holy Spirit. It transmits it to the successors of the apostles so that, enlightened by the Spirit of truth, they may faithfully preserve, expound and spread it abroad by their preaching. As a result the church, to whom the transmission and interpretation of Revelation is entrusted does not derive her certainty about all revealed truths from the holy scriptures alone. Both Scripture and Tradition must be accepted and honoured with equal sentiments of devotion and reverence.¹⁰⁹

The most authoritative level of Church teaching is that of the Pope or College of Bishops.

But as the magisterium is developed from understandings of both scripture and tradition it is not the original work of the Pope or College. When they speak infallibly¹¹⁰ they are

not inventing a new revelation but merely expressing in human words the Church's understanding of the Word once revealed. In its human pronouncements the Church does not pretend to judge the revealed Word itself; it only interprets it, though judging any interpretation of the Word contrary to its own.¹¹¹

The assumed infallibility of these judgements is based on the Church's interpretation of scripture and the traditions that have developed from it. It is further taught that infallibility is dependent on the assistance of the Holy Spirit, promised by Christ to the apostles, and enjoyed by their successors. Infallibility therefore rests on a divine authority and not a human one.

The authority of the magisterium must be seen as essentially a relative authority. Entirely derived from the authoritative mission given by Christ to the apostles, and

¹⁰⁸ Ibid., 81.

¹⁰⁹ Ibid., 81.

¹¹⁰ Infallibility is assumed on the grounds that the Holy Spirit guarantees a special guidance to the Pope and College of Bishops in their teaching authority. It does not empower them to make new revelations or to redefine truth. 'He [the pope] may make a mistake as a private theologian; only God will take care that he does not commit the whole Church to it. Papal infallibility is a negative protection. We are confident that God will not allow a certain thing to happen; that is all'. Adrian Fortescue, *The Early Papacy to the Council of Chalcedon in 451*, ed. Scott Reid. Saint Augustine's Press, 1997.

¹¹¹ Lerch, "Teaching Authority of the Church", 960.

for its efficacious exercise dependent upon the perpetual assistance of the Holy Spirit, it is relative to and bound by the authority of the revealed Word itself.¹¹²

The next level of teaching is the non-infallible, but still authoritative, ordinary magisterium. The Pope also defines the ordinary magisterium, either alone or in communion with the College of Bishops. Catholics are required to offer the ordinary magisterium ‘a true internal assent, firm, though not necessarily definitive’.¹¹³ However, the *Code of Canon Law* does not satisfactorily explain the practical nature of this internal assent.

While the assent of faith is not required, a religious submission of intellect and will is to be given to any doctrine which either the Supreme Roman Pontiff or the College of Bishops, exercising their authentic magisterium, declare upon a matter of faith or morals, even though they do not intend to proclaim that doctrine by definitive act. Christ’s faithful are therefore to ensure that they avoid whatever does not accord with that doctrine.¹¹⁴

The difference between the terms ‘assent of faith’ and ‘submission of intellect and will’ is unclear, although it appears minor because of the requirement that the faithful ‘avoid whatever does not accord with that doctrine’.

That requirement is however significantly qualified.

This assent... is not and must not be given blindly and mechanically, for in every case the adult Catholic has a right and duty to make a personal judgement of his own. First of all, freely and in faith he must accept the credentials of the Church and in particular of its magisterium to teach authoritatively in the name of Christ. And even within this context... he is not absolved from making the personal judgement as to whether in these particular circumstances pope or bishop is speaking to him in his capacity as authentic teacher and within the competence of his magisterial office.¹¹⁵

¹¹² Ibid., 960.

¹¹³ Ibid., 960.

¹¹⁴ John Paul II, *The Code of Canon Law*, 752.

¹¹⁵ Lerch, “Teaching Authority of the Church”, 965.

Following one's conscience, and satisfying oneself that the context of a pope's or bishop's teaching constitutes part of the magisterium, are important when a teaching has political implications. Although it is considered that

if bishops are faithful to their ministry the Holy Spirit will not deny a special guidance and efficacy to their preaching,¹¹⁶

a blind loyalty to a bishop's teaching is unjustifiable. Bishops can be negligent, incompetent, ill informed, or may abuse their office for political reasons. The Church does not claim that the Holy Spirit guarantees bishops immunity from these errors because to do so would deny human freewill, a concept central to Catholic thought. If the Holy Spirit is to assist in the fulfilment of his duties then the bishop must of his own freewill be receptive of that assistance. He must also be sufficiently equipped intellectually to appreciate and apply that assistance. When applying the magisterium to politically sensitive or controversial public issues a keen political awareness is also required. Bishops are presumably experts in theology, yet without further expertise in politics a bishop may teach in a way that is free of theological error, but lacking in political judgement. Certainly, an absence of political judgement has contributed to the inconsistent application of the magisterium to questions of indigenous self-determination in Australia and New Zealand.

A further reason for the inappropriateness of an absolute and unqualified acceptance of the magisterium's non-infallible teachings is that

in all matters where a strict assent of faith is not called for and where there is no exercise of infallibility, there is the possibility of revision of view.... The reason for this is that it is not only the presence of God among men but also a society made up of human beings and is not yet perfect. In essentials it is always a safe and sure guide. But human knowledge grows even if revelation does not increase, and this

¹¹⁶ Ibid., 963.

can mean that newly discovered natural truths may alter one's appreciation of what has been revealed.¹¹⁷

The teaching authority of bishops is heightened when they speak jointly. Since the Second Vatican Council the Episcopal Conference, usually comprising all the bishops of one particular country or territory, has taken on a significant teaching role. The function of an Episcopal Conference is to allow bishops to exercise those pastoral responsibilities best carried out jointly:

By forms and means of apostolate suited to the circumstances of time and place, it is to promote, in accordance with the law, that greater good which the Church offers to all people.¹¹⁸

When bishops exercise their ordinary magisterial office in this way, they are teaching in communion with one another. This gives the Episcopal Conference a higher authority than a bishop speaking alone. Like individual bishops, Episcopal Conferences teach primarily through pastoral letters. The purpose of a pastoral letter

is to proclaim the Christian doctrine, to help the faithful to follow an evangelical way of life, and to protect and uphold the dignity and rights of all human persons.¹¹⁹

The authority of a pastoral letter depends on its content. If the letter contains a 'proclamation of Catholic belief' then Catholics should respond to it with 'an assent of faith'. If it is not a proclamation of Catholic belief, the letter should be considered 'according to the ordinary theological criteria'. This means that it is to be evaluated

in the light of our tradition and the teaching of other bishops and the See of Rome. In this case the letter should be accepted 'with religious loyalty'.¹²⁰

¹¹⁷ M.E Williams, "Mind of the Church", in *New Catholic Encyclopedia, Volume IX*. Washington, D.C.: The Catholic University of America, 1967, 869.

¹¹⁸ John Paul II, *The Code of Canon Law*, 447.

¹¹⁹ Ladislav Orsy, "Function of Episcopal Letters", in *Catholic Encyclopedia*, 1967, 343.

¹²⁰ *Ibid*, 343.

Episcopal Conferences are given further power by Canon 451 which authorises the most highly political aspects of the Church's mission. This Canon reads:

Each Episcopal Conference is to draw up statutes to be reviewed by the Apostolic See. In these, among other things, arrangements... [are to be made] for other offices and commissions by which, in the judgement of the Conference, its purpose can more effectively be achieved.¹²¹

These offices and commissions are the vehicles through which many of the political aspects of the Church's religious mission are carried out. Organisations such as the Australian Catholic Social Justice Council,¹²² Caritas Aotearoa New Zealand, Caritas Australia¹²³ and Commissions for Justice and Peace, receive their mandates from Canon 451. These organisations function beneath the Conferences and are headed by an Episcopal deputy, but they do not teach the magisterium of the Church. What they teach is a human interpretation of the magisterium, as groups of individuals with varying degrees of expertise in politics and other disciplines relevant to an understanding of the issue under consideration. At times intellectually and politically weak understandings of indigenous self-determination have emerged from these bodies, while on other occasions they have applied the magisterium in an incisive and politically effective fashion. This reflects the interpretation of the magisterium subject to human knowledge, understanding and ability, and indeed the political biases of members of the office or commission.

¹²¹ John Paul II, *The Code of Canon Law*, 451.

¹²² 'The Australian Catholic Social Justice Council (ACSJC) was set up by the Australian Catholic Bishops' Conference (ACBC) in 1987 as the national justice and peace agency of the Catholic Church in Australia. The Australian Catholic Bishops' Conference mandates the ACSJC to promote research, education, advocacy and action on social justice, peace and human rights, integrating them deeply into the life of the whole Catholic community in Australia, and providing a credible Catholic voice on these matters in Australian society.' (http://www.socialjustice.catholic.org.au/content/about_us.html).

¹²³ Caritas Aotearoa New Zealand and Caritas Australia are among the 154 members of the Caritas Internationalis confederation of Catholic relief, development and social service organisations throughout the world. Caritas' mission is 'to spread solidarity and social justice throughout the world'. (<http://www.caritas.org/jumpCh.asp?idUser=0&idChannel=6&idLang=ENG> (6 October 2002)).

Writers of submissions, speeches, press statements and newsletters on behalf of the Church require an intellectual objectivity to avoid the use of the Church's name and authority for the pursuing of personal political agendas. The same applies to bishops, Episcopal Conferences and priests. The role of the parish priest can also be politically delicate because

the parish priest has the obligation of ensuring that the word of God is proclaimed in its entirety to those living in the parish. He is therefore to see to it that the lay members of Christ's faithful are instructed in the truths of the faith.¹²⁴

Further, the parish priest is required

to foster works which promote the spirit of the Gospel, including its relevance to social justice.¹²⁵

However, social justice has many different valid political manifestations, which the Church does not claim are divinely revealed to priests. The same applies to members of religious orders whose work among Australasia's indigenous peoples has been significant. Members of religious orders

by reason of their consecration to God... bear particular witness to the Gospel, and are so called upon by the bishop to help in proclaiming the Gospel.¹²⁶

In fulfilling the obligation to 'bear witness to the Gospel' the Society of Jesus,¹²⁷ for example, has presented the magisterium in a practical and substantial way to the Australian body politic. It has done this through its initiation and active promotion of reconciliation between black and white Australia. This only occurred of course with the

¹²⁴ John Paul II, *The Code of Canon Law*, 528.

¹²⁵ *Ibid.*, 528.

¹²⁶ *Ibid.*, 758.

¹²⁷ The Society of Jesus, or Jesuits was founded by Ignatius Loyala in 1540. 'Today, the Society of Jesus has nearly twenty-five thousand members world-wide... Through its missions, its parishes, and its educational institutions, it lives out a world-affirming commitment to the service of faith and the promotion of justice' *History of the Jesuits* (The University of Scranton: [cited 6 October 2002]); available from <http://www.uofs.edu/admin/jeshist.html>.

added personal values and political judgements of those Jesuits at the forefront of the reconciliation debate.

The same political/religious interface applies to lay people who

by reason of their baptism and confirmation, are witnesses to the good news of the Gospel, by their words and by the example of their Christian life.¹²⁸

The function of lay people in promoting the Church's teachings in the political community was emphasised by the Second Vatican Council:

Laymen should also know that it is generally the function of their well-formed Christian conscience to see that the divine law is inscribed in the life of the earthly city; from priests they may look for spiritual light and nourishment. Let the layman not imagine that his pastors are always such experts, that to every problem which arises, however complicated, they can readily give him a concrete solution, or even that such is their mission. Rather, enlightened by Christian wisdom and giving close attention to the teaching authority of the Church, let the layman take on his own distinctive role.¹²⁹

In various ways the Church requires all its members to contribute to the realisation of its magisterium in the political community, as

without commitment to what is true and good, Christian piety has a false otherworldliness.¹³⁰

Consequently, the Church sees the activities of every day life within the context of a wider religious significance. Thus,

all of life is religion. By this is meant that nothing in human life - no human activity and no part of reality within which human kind functions - exists apart from a religious root. All human creatures in all their activities live out their lives on the basis of beliefs under the directing influence of some central religious motivating force or spirit.... [The Church] rejects the assumption... that the religious and the secular realms are separate and ought to be kept apart. The basis for rejecting this limiting view of religion... is found in the biblical themes of the Lordship of Christ

¹²⁸ John Paul II, *The Code of Canon Law*, 759.

¹²⁹ The Second Vatican Council, *Gaudium et Spes*, 43.

¹³⁰ Frank Fletcher, "Mabo and Wik as Spiritual Events", Discussion Paper for the Australian Conference of Leaders of Religious Institutes, 1998, 6.

and the Kingdom of God the religious implications of which are taken to be all-encompassing in relation to human life and society.¹³¹

Individuals are therefore required to establish alongside their own political preferences ways in which they can most effectively ‘bear witness’ to their faith. Social teaching is more than just an intellectual doctrine. It inextricably links the political and the religious dimensions of human society.

Summary

For the Catholic Church the Christological and anthropological are connected by a social teaching which emphasises that the purpose of human law is to order the conduct of human society in accordance with the natural law. Thus human law does not exist in a vacuum apart from religious conceptions about the metaphysical nature of human being. The policy choices of secular society therefore interest the Church, which has a self-identified mission of teaching its faith, based on scripture and tradition. It teaches its faith through developing and proclaiming a magisterium, and it is its social mission to influence the political decisions of communities towards its understanding of the natural law.

¹³¹ Cameron, “Law, Justice and the State”, 38-39.

CHAPTER TWO

Political Means to a Religious End

Introduction

The pursuit of religious objectives often requires secular political means so for the Church, there is an inescapable link between the religious and the public realms. The pursuit of religious goals can require political means because for the Church human law, which is inevitably developed within the political order, should conform to the religious natural law. This position is clearly discernable from the magisterium. Yet there remain alternative, indeed contrary, positions within the Church that are relevant to an understanding of how the Australian and New Zealand Churches have interpreted the propriety of their approaches to the political implications of the religious rights of indigenous peoples. One extreme position would distance religion from any secular political context, and the other extreme would emphasise the political project over the Church's sacramental and evangelical functions. On the basis of a consideration of the general premises of liberation theology and the Holy See's criticisms of that theology, it is clear that neither of these two extremes provide a useful foundation for the Church's public advocacy of the rights of indigenous peoples. The magisterium reconciles the tension between the religious goal and political means even if individuals often do not.

Later chapters will argue that the post-Second Vatican Council Australasian Churches have often, although not exclusively, been able to present the magisterium to the body politic in a fashion that is religiously authentic yet relevant in secular context. It has been recognised that if the

Church wishes to maintain its freedom with regard to the opposing [ideological and political] systems, in order to opt solely for the human being¹

then it must

remain above politics, but its members may not escape their political responsibility as citizens. In more abstract terms, there are two autonomous but interacting realms, Church and state, religion and the political order. Only when this is clearly understood can we avoid the twin pitfalls of pious irrelevance to or irresponsible involvement in the political drama of our age.²

The Church and the Political Order

As the Roman Catholic Church is a universal institution its response to the relationship between the State and the indigenous peoples of Australia and New Zealand needs to be seen within the context of an internationally developed understanding of the relationship between the Church and the political order. Augustine's³ articulation of a Christian world-view was critical in providing the political theory for the Church's support of political authority. Augustine's political theory was a bleak one, built on an account of human nature which maintained that the fallen and corrupt human nature required the state to repress the consequences of sin and thereby keep order. He saw the state as a negative institution, but permitted by God because it provided the social order that would prevent greater evil. Augustine claimed authority for this view from Paul's instruction to the Romans that

Everyone must obey the state authorities, because no authority exists without God's permission, and the existing authorities have been put there by God.⁴

¹ John Paul II, *Opening Address at the Puebla Conference* (Vatican City, 1979: III, 3 [cited 10 January 2000]); available from <http://www.ewtn.com/library/PAPALDOC/JP791228.HTM>.

² Quentin L. Quade, *The Pope and Revolution: John Paul II Confronts Liberation Theology*. Washington, D.C.: Ethics and Public Policy Center, 1982: 1.

³ Augustine of Hippo was one of the Church's foremost theologians. He was ordained priest in 396 and later became Bishop of Hippo.

⁴ Paul's Letter to the Romans, *Good News Bible: Today's English Version*. London: 1981, Chapter 13: 1.

Aquinas later mitigated the bleak pessimism of Augustinian political theory by adopting a more positive view of human nature and accepting the possibility of earthly good. His view that positive natural goods are achievable and worthwhile led to a positive viewing of society and the state. Aquinas emphasised a humanist dimension giving authority to the purely human, rather than the supernatural or religious. For Aquinas, political authority is necessary to direct society because the natural law is indeterminate. The common good cannot be determined in the abstract. There are historically variant preconditions for achieving the common good in specific circumstances. The types of laws needed to facilitate the common good will depend on the specific circumstance. The power to direct society to the achievement of human good is properly the power of secular, not Church authority, but this does not in any way make secular policy choices irrelevant to the Church which must always retain an interest in the moral dimensions of human affairs.

In 1890 Leo XIII expressed the view that when human law undermines the dignity that is owed all people, the Church is legitimately interested since

from God has the duty been assigned to the Church not only to interpose resistance, if at any time the State rule should run counter to religion, but, further, to make a strong endeavour that the power of the Gospel may pervade the law and institutions of the nations.⁵

Yet in practice this apparently clear injunction has not always informed Church practice. At one extreme are those who emphasise ‘detachment’ from secular realities either because it suits a particular political preference, or because they view human existence strictly and narrowly ‘in the light of eternity’, with material well-being considered unimportant against the ongoing spiritual well-being that is the Church’s ultimate

⁵ Leo XIII, *Sapientiae Christiannae* (Vatican City, 1890: 31 [cited 12 March 1998]); available from <http://www.ewtn.com/library/ENCYC/L13SAPIE.TXT>.

concern. At another extreme are those who place a political project to address material concerns above the Church's sacramental and evangelical function. Neither extreme provides a firm theological or political foundation from which the Church can 'interpose resistance'⁶ when secular political preferences obstruct religious goals.

Since the Second Vatican Council the Australian and New Zealand Churches have found a position that has been compromised only when undue secular political thought has gained favour among Church elites. This compromising of religious thought has at times, especially prior to the Second Vatican Council, created a distance between the official positions of the Holy See and specific Church practice in Australasia. Such distance between magisterial thought and Australasian practice tends to have arisen when the Church has either not seen, or has underemphasised, the relationship between its salvific mission and the circumstances of everyday living. This in turn, from a religious point of view, renders unimportant the political choices of governments. And where political circumstances are given little regard, informed critical analysis of the impact of policy choices on indigenous peoples does not receive attention.⁷

The contemporary Roman Catholic understanding of the proper relationship between the Church and the political order arises from the ideological history of the modern Catholic Church, which

begins with social changes in which the papacy lost some of its power to secular forces, which altered the means by which it asserted ideological dominance over other parts of the Church. That process originated with the decline of feudal social structures, in which the Church had been a central beneficiary.⁸

⁶ Ibid, 31.

⁷ This argument is more fully developed in following chapters.

⁸ Gene Burns, *The Frontiers of Catholicism: The Politics of Ideology in a Liberal World*. Los Angeles: University of California Press, 1992, 17.

The changes in the political order of what became the modern State of Italy in 1870 imposed upon the Church a reappraisal of its political ideology.

This concerned, in particular, the relationship between temporal and spiritual authority which had been inextricably linked throughout Catholic Europe from the time of the conversion to Christianity of the emperor Constantine. Although the Church emphasised the importance of the spiritual over the temporal, its religious authority and political influence were interdependent.

Major European Catholic powers heavily influenced not only papal policies, but even papal elections. France, Spain and Austria even possessed the officially accepted right to veto any candidate in a papal conclave, until 1903 when Pope Pius X declared the veto invalid (Use of the veto was common in the eighteenth and nineteenth centuries). Popes were heavily dependent on such nations to conduct their policies, and Catholic sovereigns occasionally had to fear the loss of their thrones should the Pope come to oppose them. As another example of the intertwining of spiritual and temporal authority, the central role of the Church in European feudalism of course hardly needs mention.⁹

Successive popes between 754 and 1870 had relied upon the Papal States for the temporal power which maintained and extended the papacy's influence. The loss of that power encouraged the Church to seek new ways of exerting itself. The Papal States had been important because they gave the Holy See a geographic power base and a population base, both for its own defence and for the extending of its influence throughout Europe. Under the political framework in place in Europe the Church was heavily dependent on its civil authority, and fought hard to retain it. For eleven hundred years up to 1871

the Popes struggled through diplomacy and war to keep or regain the papal states... The Popes realized that the goodwill of monarchs was a very weak foundation for the freedom of the papacy. Time and time again kings, nobles, or mobs threatened or attacked Popes. Whoever controlled the police and military in Rome could control the papacy. Without constitutional government and the rule of law the only

⁹ Ibid., 25.

way to stay free was to have your own army. The papal states, therefore, were a necessary foundation for papal independence and Church freedom.¹⁰

The relationship between the Church and State began to alter with the rise of liberal and anticlerical thought and with the growing resentment of the extensive influence that the Church had historically maintained. Leo XIII was pressured into beginning to make what is now an accepted distinction between the political and spiritual domains. Burns argued that this change in approach saw the papacy 'gradually de-emphasise doctrine that had specific, controversial implications for state policy'.¹¹ He went on to suggest that what had happened was that

simultaneously the papacy had obtained increased autonomy over one category of issues more purely religious while becoming politically excluded from another category of issues - temporal issues. The papacy actually had more latitude over internal Church affairs and doctrine, given the decline of secular state meddling.¹²

Out of this came a clarification of the difference between the spiritual and temporal domains. The concession that Leo made was to acknowledge that the Church was limited in its competence to contribute to political debate, and that it could only properly comment on matters that had relevance to Catholic moral theology. However, his view that 'the tranquillity of public order' is the 'immediate purpose of civil society' and that from this tranquillity 'man expects to derive his well-being',¹³ theoretically at least, left few political issues beyond the Church's interest.

States sometimes enact policies which compromise human well-being and hence the Church, if responsive to its stated mission, will attempt to influence public debate towards alternative policy prescriptions. For example, Leo emphasised in a letter to the

¹⁰ Thomas J Reese, *Inside the Vatican: The Politics and Organization of the Catholic Church*. Cambridge, Massachusetts: Harvard University Press. 1996, 17.

¹¹ Burns, *The Frontiers of Catholicism: The Politics of Ideology in a Liberal World*, 17.

¹² Ibid., 17.

¹³ Leo XIII, *Sapientiae Christiannae*, 30.

Brazilian bishops in 1891 that the Church should resist the mistreatment of that country's indigenous peoples. He explained his role as Pope in promoting the material well-being of all.

It is right... and obviously in keeping with Our apostolic office, that We should favour and advance by every means in Our power whatever helps to secure for men, whether as individuals or as communities, safeguards against the many miseries, which, like the fruits of an evil tree, have sprung from the sin of our first parents.¹⁴

In contrast with such a view, there were some within the Church who relegated to irrelevance the role of the Church's relationship with political decisions. An example of such an approach comes from 1931 when in the context of widespread racism, Aston Chichester,¹⁵ Vicar Apostolic of Salisbury, noted that 'in the presence of God every living soul is equal'.¹⁶ But the bishop then went on to argue that it was not his place to interfere in a political order that implemented policies in conflict with human equality. The logic behind Chichester's position was explained, although not accepted, by McDonagh.

The love which God has for each of us, the love which impelled him to send his only Son, gives a depth and significance to our dignity and equality which no privation or exploitation can destroy. In the midst of the worst of oppression to have this sense of one's dignity is a reassurance and consolation which may not be easily taken away. It also reminds us that we have no lasting city here and that our dignity and equality will finally receive a recognition that no earthly power and wealth could match. For men of Archbishop Chichester's time this was at the heart of the Gospel; it was what they really came to offer the people, not any political kingdom.¹⁷

Chichester's understanding was that the purpose of human existence is beyond life on earth. Therefore people whose dignity is not upheld and respected by the State will be

¹⁴ Leo XIII, *In Plurimis* Vatican City, 1888: 2 [cited 3 February 1998]. Available from <http://www.ewtn.com/library/ENCYC/L13ABL.TXT>.

¹⁵ Aston Chichester was a bishop and member of the Society of Jesus. He was appointed Vicar Apostolic of Salisbury (Harare, Zimbabwe) in 1931.

¹⁶ Enda McDonagh, *The Demands of Simple Justice*. Dublin: Gill and Macmillan. 1980, 95.

¹⁷ *Ibid.*, 96.

rewarded in the life to come. While this may be argued from a Catholic perspective, it is patently simplistic, for the Catholic faith further requires that all people have the opportunity to live in a manner that fully respects their creation in the image and likeness of God.¹⁸ It cannot credibly suspend practical advocacy of this belief when political circumstances make indifference an easier option. Public intervention against racial discrimination and oppression does not improperly transgress the line between the political and spiritual since one cannot live a fully moral and dignified life in an environment of hostility to one's being.

At times this kind of theological misinterpretation has caused the Church to disregard its self-imposed responsibilities to resist affronts to human dignity and justice. Such responsibilities are not optional additions to the practice of faith, but essential to it. This argument derives authority from a number of scriptural sources, such as the prophet Amos' injunction:

Stop your noisy songs; I do not want to listen to your harps. Instead, let justice flow like a stream, and righteousness like a river that never goes dry.¹⁹

In Latin America there are examples of prelates who arguably for reasons of political preference have not considered issues of justice at all. For example, an examination of the pastoral letters of José Antonio Lezcano y Ortega,²⁰ Archbishop of Managua during the 1930s, indicated an unwillingness to challenge injustice:

... no mention is ever made of social justice, nor is there any criticism of institutional brutality, problems facing the nation, or widespread poverty. The archbishop does mention poverty, however not to condemn it, but rather to counsel the poor to be proud of their pathetic living conditions: 'Let us rejoice in the happiness of those princes and gentlemen who became poor in order to imitate

¹⁸ The Gospel According to John, *Good News Bible: Today's English Version*. London: 1981. Chapter 10: 10.

¹⁹ The Book of Amos, *Good News Bible: Today's English Version*. London: 1981. Chapter 5: 23-24.

²⁰ José Antonio Lezcano y Ortega was Archbishop of Managua from 1914 to 1952.

Christ...' significantly, he does not counsel Somoza and other 'princes' to emulate Christ's example.²¹

Liberation Theology

Liberation theology does not directly inform the Australasian Churches' advocacy of the rights of indigenous peoples. Its discussion is relevant at this point however, because the intellectual challenges that it posed helped expand the Church's theological treatment of sin beyond individual sin to a more comprehensive understanding of social and structural sin which has implications in the public sphere. Liberation theology is at least in part a response to simplistically narrow approaches to the separation of the Church's religious mission from the political circumstances of the world in which it functions.

Lynch explained that the intent of liberation theology was to change how theology addresses human problems. Liberation theologians, he argued,

reject, with disdain, the notion that getting people to heaven is more important than getting them tolerable living conditions. Liberation theology is an attempt to change people's minds about what is most decisive and significant in their lives.²²

It is not necessarily the mainstream of liberation theology that has provoked the deep concern of the Holy See. Indeed many of its precepts are enunciated in the magisterium, and have been developed by John Paul II and Joseph Ratzinger.²³ The Holy See is however concerned with those strands of thought which

would reduce the mission of the Church completely to the human project of seeking justice. They envisage the Church as a secular humanist organization of one political colour or another. Others want to place the quest for justice on the same level as the sacramental and evangelical activities of the Church. Finally, there are those who, while accepting the primacy of the spiritual role of the Church, wish to

²¹ John M Kirk, *Politics and the Catholic Church in Nicaragua*. Gainesville, Florida: University Press of Florida. 1992, 38.

²² Edward A Lynch, *The Retreat of Liberation Theology* (The Homiletic & Pastoral Review, 1994: [cited 7 January, 2000]); available from <http://www.ewtn.com/library/ISSUES/LIBERATE.TXT>.

²³ Joseph Ratzinger is Prefect of the Congregation for the Doctrine of the Faith. He is a former professor of dogmatic theology and the history of dogma at the University of Regensburg in Germany. He was created cardinal by Paul VI in 1977.

politicise it by identifying the Church's temporal concern with a partisan political position.²⁴

Such reservations suggest that to regard the Church as a 'secular humanist organisation of one political colour or another' would interfere with the basic Catholic doctrine of individual free will because it would prescribe political solutions rather than simply provide moral guidelines to inform policy resolutions. Furthermore, with the legitimate diversity of political opinion that exists both among the Church hierarchy and its members, it is impossible to imagine how that 'one political colour or another' might be determined, because such determination is beyond the competence of the magisterium.

The suggestion that the 'quest for justice' should be placed on the same level as the Church's sacramental and evangelical functions is flawed from a Catholic perspective because the Church teaches that the Eucharist reaffirms the 'brotherhood of man', and allows the benefit of Christ's death and resurrection to be shared among all people. In turn justice, at least in part, is a function of that 'brotherhood of man'. So while important, justice can not be regarded as on the same level as the divine act that reinforces its religious significance.

Two contemporary liberation theologians Leonardo Boff²⁵ and Clodovis Boff²⁶ have explained that liberation theology originated in the early colonial experience of Latin America when priests began to question the way the poor were treated. They suggested that this led to a questioning of

²⁴ Hugh Henry, "Between Gospel and Policy: The Catholic and Social Problems", in *Chaining Australia: Church Bureaucracies and Political Economy*, ed. Geoffrey Brennan, and Williams, John K. St Leonard's, New South Wales: The Centre for Independent Studies. 1984, 104-10.

²⁵ Leonardo Boff is a former Franciscan priest. He left the priesthood after theological disagreements with the Holy See. With his brother Clodovis Boff he remains an active theologian.

²⁶ Clodovis Boff is a priest and widely published liberation theologian.

populist governments of the 1950s and 1960s – especially those of Peron in Argentina, Vargas in Brazil, and Cardenas in Mexico – [that had] inspired nationalistic consciousness and significant industrial development in the shape of import substitution. This benefited the middle classes and urban proletariat but threw huge sectors of the peasantry into deeper rural marginalization...²⁷

Disenchantment with political choices during the 1950s and 1960s resulted in popular movements seeking political change, which according to the liberation theology analysis

in turn provoked the rise of military dictatorships, which sought to safeguard or promote the interests of capital, associated with a high level of “national security” achieved through political repression and police control of all public demonstrations. In this context the socialist revolution in Cuba stood out as an alternative to the dissolution of the chief cause of underdevelopment: dependence.²⁸

Proponents of liberation theology have regarded it as taking up the ‘political diaconate’ by ‘taking the side of the workers’.²⁹ In contrast Australian Church leaders have responded to allegations of ‘taking sides’ in the native title debate during the 1990s by expressing their position of support for indigenous land rights purely in religious terms. Certainly that support was given expression in the political arena because that was the only place in which the Church’s religious goals could be met. It cannot however be described as primarily a ‘political diaconate’ since a partisan secular political position was not taken, yet this did not prevent a religious alignment with indigenous political aspiration.³⁰

From the Holy See’s standpoint there is further reason for caution in the contention that liberation theology

seeks to be a militant, committed, and liberating theology. It is a theology that leads to practical results because today, in the world of the “wretched of the earth,” the

²⁷ Leonardo Boff and Clodovis Boff, *Introducing Liberation Theology*. Tunbridge Wells, Kent: Burns and Oates/Search Press Limited. 1987, 66-67.

²⁸ *Ibid.*, 67.

²⁹ *Ibid.*, vii.

³⁰ See Chapters 6 and 7 for a detailed discussion.

true form of faith is “political love” or “macro-charity.” Among the poorest of the Third World, faith is not only “also” political, but *above all else* political.³¹

Another liberation theologian, the priest Sergio Torres has argued that

the process of colonization, liberation, and organization are best understood in Marxist terms.³²

Likewise the priest and theologian Juan Luis Segundo claims that:

The only way is for us to choose between two oppressions. And the history of Marxism, even oppressive, offers right now more hope than the history of existing capitalism... Marx did not create the class struggle, international capitalism did.³³

Marxist analyses may contribute to secular understanding of particular economic choices, but they can not constitute an inescapable conclusion to be drawn from one's Catholic faith. Like any social ideology Marxist economic analysis contains 'possible ambiguity'.³⁴ A rejection of Marxist revolutionary tendencies does not require an uncritical acceptance of capitalism, of liberal democracy or any other political or ideological framework societies may adopt. A rejection of one ideology simply because one's preference lies elsewhere is a legitimate political choice, but according to the Holy See not a legitimate theological choice, because taking a partisan political position in whatever circumstance compromises the Church's ability to promote its religious aspirations with any authenticity in other contexts. The use of Marxist analysis alongside liberation theology concerned the Holy See because of its emphasis on class struggle, a struggle that according to the Church divides humanity.

³¹ Boff and Boff, *Introducing Liberation Theology*, 39.

³² Sergio Torres, in *Democracy and Mediating Structures: A Theological Inquiry*, ed. Michael Novak Washington, D.C: American Enterprise Institute for Public Policy Research. 1982, 77.

³³ Juan Luis Segundo, in *Democracy and Mediating Structures: A Theological Inquiry*, ed. Michael Novak Washington, D.C: American Enterprise Institute for Public Policy Research. 1982, 78.

³⁴ Paul VI, *Octogesima Adveniens*, 27.

The liberation theologian Gustavo Gutierrez³⁵ has argued that the preferential option for the poor requires a reconstruction of unjust social structures and that liberation theology is therefore a ‘true political understanding of the Gospel’.³⁶ This inevitably is antithetical to the Holy See’s suggestion that

[the Gospel] is not however to be utilised for the profit of particular temporal options, to the neglect of its universal and eternal message.³⁷

For the Church liberation might include liberation from material or political exploitation, but beyond that liberation must also include liberation from sin. This is because it is not social or political systems that cause exploitation, rather it is the human sin of those who construct and uphold sinful systems that cause exploitation. Exploitation arising from notions of racial superiority or from a greed which can not be satisfied without affronting the rights of indigenous peoples might be given expression through political ideology. But for the Church they are not functions of that ideology in their own right because political systems and political ideologies do not arise of their own accord. Instead notions of racial superiority are products of human conceptions of themselves in relation to others. Therefore from a theological perspective, an attempt by the Church to address racism as a purely political project is flawed because racial prejudice, it is maintained ‘can only be eradicated by going to its roots, where it is formed: in the Human heart’.³⁸

Paul VI’s instruction that the Gospel can not be used to pursue temporal political options at the expense of its wider functions is relevant to the Church’s public participation in the affairs of the Australasian pluralist democracies because the Gospel and indeed the

³⁵ Gustavo Gutierrez is a widely published liberation theologian. He is a priest who works among the poor in Lima, Peru.

³⁶ Gustavo Gutierrez, 1982: 32

³⁷ Paul VI, *Octogesima Adveniens*, 4.

³⁸ Pontifical Council for Justice and Peace, *The Church and Racism: Towards a More Fraternal Society* IV, 24.

magisterium do not tell members how to vote in Parliament, do not provide legislative or policy solutions, do not provide the technical details of a solution to a land rights problem, or the wording of Treaty of Waitangi settlement legislation. They do however provide a moral framework for considering these issues, and they do suggest that according to the natural law, land rights are religious rights and that reconciliation between indigenous and non-indigenous peoples is a proper religious goal.

Liberation theology encouraged the emergence of a more forceful officially sanctioned view that the religious and the political, while different, do have an inseparable relationship. Further, the magisterium clearly establishes for Catholics the propriety of a religious motivation to political participation. Levine has summarised the relationship:

... religion and politics grow and change together in all societies and cultures. Common structures of meaning and action knit the two domains into one, as notions of authority, hierarchy and community... bring religious and political activists together - often in mutual support, often in conflict.... Changes in both religion and politics have led to a struggle to control the direction and to shape the meaning of an emerging new relation between religious and political beliefs, attitudes, and actions.³⁹

Levine's description shows the potential closeness of policy ideas to religious principles and helps to explain why

people who are religious place the activities of daily life - be they economic, cultural, social, or political - in a far-reaching context of transcendental significance.⁴⁰

For Catholics, the increased tendency to see the routine aspects of daily life and the political ordering of society in a wider context of 'transcendental significance' largely arose from the reappraisal of the place of the Church in the world, a major theme of the Second Vatican Council. The emergence of new theological interpretations and emphases

³⁹ Levine, *Religion and Politics in Latin American: The Catholic Church in Venezuela and Colombia*, 3.

⁴⁰ Ibid, 4.

allowed the Church to develop a growing alertness for political issues to give secular context to its magisterium. At the same time there was a gradual emergence of a political climate conducive to the forming of intellectual alliances of common aspiration with proponents of similar ideas in the secular realm. The Holy See's contention that in Australia and New Zealand religion has been marginalised to the fringes of public life is therefore unsustainable, at least in the case of indigenous politics and policy.⁴¹

The Second Vatican Council

The earlier understatement by the Church of the extent to which secular political choices could compromise religious goals was challenged by the Council in its firm assertion that the Church could properly contribute to the consolidation of the 'human community according to the divine law.'⁴² Therefore, if the Church was to repudiate racism at a theoretical level there was, logically, an accompanying requirement to challenge it in the public arena.

The Council's comments on cultural preservation were also significant for the relationship between religious ideas and political preferences.

whatever good is in the minds and hearts of men, whatever good lies latent in the religious practices and cultures of diverse peoples, is not only saved from destruction but is also cleansed, raised up and perfected unto the glory of God, the confusion of the devil and the happiness of man..⁴³

The belief that cultures should not just be preserved, but should be promoted and upheld for their contribution to the salvation of their members, was a significant re-emphasis of a previously understated Catholic belief. This development in theological understanding

⁴¹ John Paul II, *Ecclesia in Oceania* (Vatican City, 2001: 7 [cited 13 December 200]); available from http://www.vatican.va/holy_father/john_paul_ii/apost_exhortations/documents/hf_jp-ii_exh_20011122_ecclesia-in-oceania_en.html.

⁴² The Second Vatican Council, *Gaudium et Spes*, 42.

⁴³ The Second Vatican Council, *Lumen Gentium* (Vatican City, 1964: 17 [cited 7 January 2000]); available from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.

arose from the explanation of a theological error that had informed earlier understandings of salvation. While confirming that the Church was necessary for salvation because Christ had taught that salvation could not occur without faith and baptism,⁴⁴ the Second Vatican Council explained that this excluded only those who:

knowing that the Catholic Church was made necessary by Christ, would refuse to enter or to remain in it.⁴⁵

On the basis that God ‘wants everyone to be saved’⁴⁶ the Council continued to explain why those who practice indigenous religions will not, as a matter of course, be denied salvation, as had earlier been maintained.

Those also can attain to salvation who through no fault of their own do not know the Gospel of Christ or His Church, yet sincerely seek God and moved by grace strive by their deeds to do His will as it is known to them through the dictates of conscience. Nor does Divine Providence deny the helps necessary for salvation to those who, without blame on their part, have not yet arrived at an explicit knowledge of God and with His grace strive to live a good life. Whatever good or truth is found amongst them is looked upon by the Church as a preparation for the Gospel. She knows that it is given by Him who enlightens all men so that they may finally have life.⁴⁷

This development in theological understanding reaffirmed the respect that many, although by no means all, missionaries had for indigenous cultures. Much of the contemporary work of both the Australian and New Zealand Churches on issues such as self-determination, land rights and linguistic and cultural preservation therefore give effect to Second Vatican Council teaching that cultural preservation and salvation are linked.

⁴⁴ The Gospel According to Mark, *Good News Bible: Today's English Version*. London, 1981, Chapter 16: 16. The Gospel According to John, *Good News Bible: Today's English Version*. Chapter 3: 5.

⁴⁵ The Second Vatican Council, *Lumen Gentium*, 14.

⁴⁶ Paul's First Letter to Timothy, *Good News Bible: Today's English Version*. London: 1981, Chapter 2: 4.

⁴⁷ The Second Vatican Council, *Lumen Gentium*, 16.

A further traditional teaching reaffirmed by the Council was that relating to indigenous peoples, which Leo had put to the Brazilian bishops in his encyclical letter *In Plurimis* in 1888.⁴⁸ Its response to Leo XIII's principles were expressed in *Gaudium et Spes* in 1965, which required the Church to promote economic and political decision making, that respected human dignity and that distributed goods fairly. It also promoted subsidiarity and asked Christians to approach their temporal responsibilities with 'justice and love'.⁴⁹ The Council stressed temporal responsibilities as a basic consequence of faith, not just for the clergy and religious but for the whole Church.

Laymen should also know that it is generally the function of their well informed conscience to see that the divine law is inscribed in the life of the earthly city... enlightened by Christian wisdom and giving close attention to the teaching authority of the Church, let the layman take on his own distinctive role.⁵⁰

Gaudium et Spes explained that Christ gave his Church no political mission, rather a religious one. Yet this religious mission's consequent function is inherently political in application and implementation. It is believed that out of that religious mission comes

a function, a light and an energy which can serve to structure and consolidate the human community according to the divine law. As a matter of fact, when circumstances of time and place produce the need, she can and indeed should initiate activities on behalf of all men, especially those designed for the needy, such as the works of mercy and similar undertakings.⁵¹

In *Ad Gentes* it was further made explicit that the Church has 'no desire at all to intrude itself into the government of the earthly city'.⁵² In this remark Paul VI was explaining that the Church's competence as a political actor did not extend to its having an active

⁴⁸ Leo XIII, *In Plurimis*.

⁴⁹ The Second Vatican Council, *Gaudium et Spes*, 30.

⁵⁰ *Ibid.*, 43.

⁵¹ *Ibid.*, 42.

⁵² The Second Vatican Council, *Ad Gentes*, 12.

participation in government or to having temporal authority in its own right. Yet there was still a relationship between the Church and the political community.

Everything We have said about the dignity of the human person, and about the human community and the profound meaning of human dignity, lays the foundation for the relationship between the Church and the world, and provides the basis for dialogue between them.⁵³

Paul did not object to the Church vocally presenting its values and view of the world to civil governments for incorporation into state policy because,

since the Church lives in history, she ought to scrutinize the signs of the times and interpret them in the light of the Gospel. Sharing the noblest aspirations of men and suffering when she sees them not satisfied, she wishes to help them attain their full flowering, and that is why she offers men what she possesses as her characteristic attribute: a global vision of man and of the human race.⁵⁴

Paul VI expressed the point that the Church's religious mission, while not political in itself has political implications:

As a matter of fact, when circumstances of time and place produce the need, she can and indeed should initiate activities on behalf of all men, especially those designed for the needy, such as the works of mercy and similar undertakings.⁵⁵

The Church cannot escape its self imposed responsibility to speak out against policies it considers detrimental to the well being of a particular group of people because, as Peter Cullinane, Bishop of Palmerston North explains:

Evil exists not only out of individual choices but also in the social structures and economic systems which result from those choices.⁵⁶

John Paul II further explained the relationship between religious objective and secular policy choices in stating that the Church cannot abandon man 'for his destiny... is so

⁵³ The Second Vatican Council, *Gaudium et Spes*, 40.

⁵⁴ Paul VI, *Populorum Progressio*, 13.

⁵⁵ The Second Vatican Council, *Gaudium et Spes*, 42.

⁵⁶ Cullinane, "Social Sin, Sinful Structures". 1988, 1.

closely and unbreakably linked with Christ.⁵⁷ This view challenged what might have been an earlier ideological tension impeding the Church's public expression of its magisterium.

The Catholic Church has always faced a dilemma when it came to deal with politics. As it conceives itself, the Church is the people of God, a divinely established community on a pilgrimage through history to eternal life. As such, it sees secular realities... rise and perish with the tides of history, and it views these realities... 'In the light of eternity' with a certain detachment. On the other hand, the Church cannot but require a deep involvement in the concrete historical action of which human life is composed.⁵⁸

The Council maintained that Church reliance on works of charity and appeal to the consciences and good will of individuals was not in itself an adequate way of fulfilling its responsibilities to the victims of injustice and oppression.⁵⁹ It marked a significant change in missiological⁶⁰ approach and presented a challenge to the Church, particularly those members of a more conservative political disposition. The Council acknowledged that on occasion the Church had been guilty of sins of omission through avoiding public demonstration of its values and responsibilities at various times throughout its history.

Although

the Church has kept safe and handed on the doctrine received from the master and from the apostles.... There have at times appeared ways of acting (within the Church) which were less in accord with the spirit of the Gospel and even opposed to it.⁶¹

⁵⁷ John Paul II, *Redemptor Hominis* (Vatican City, 1979: 14 [cited 12 December 2002]); available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis_en.html.

⁵⁸ Henry, "Between Gospel and Policy: The Catholic and Social Problems", 104.

⁵⁹ The Second Vatican Council, *Gaudium et Spes*.

⁶⁰ In this sense missiology refers to the practice of mission. It is also the name given to the academic study of mission.

⁶¹ The Second Vatican Council, *Declaration on Religious Freedom Dignitatis Humanae on the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious* (Vatican City, 1965: 12 [cited 23 October 2002]); available from

http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

Dignitatis Humanae did not provide any specific examples, but it may, *inter alia*, have been referring to the Church's historical willingness to speak against some of the abuses practised by colonial powers against indigenous peoples, but its unwillingness to intervene in any practical way. Contemporary Church thinking since the Second Vatican Council holds that such an attitude is inconsistent with the Church's claimed responsibility to 'bear witness' to the Gospel.

The Medellin Conference

In response to the Second Vatican Council's requirement of greater attention to issues of social, political and economic justice, the Churches of Latin America met in conference in Medellin, Colombia in 1968. The meeting published a document *Justice* which broadened the understanding of sin to include social and structural sin,⁶² which has had theological and political significance, not just for the Latin American Churches, but for the Catholic Church worldwide:

...conventionally considered to refer to personal situations and individual morality, sin was extended at Medellin to characterize entire social systems whose injustice, oppression, and institutionalized violence were sinful because they imposed conditions making a fully moral and decent life impossible. Once this kind of connection is made, it is clearly a short and relatively easy step to argue that [if] oppressing social, economic, and political structures are sinful, and hence prevent the full realization of human potential...⁶³

The conservative hierarchies of many of the Latin American Churches have resisted this interpretation of the Second Vatican Council and of Medellin. For example, the religious conservatism of Miguel Obando y Bravo,⁶⁴ Archbishop of Managua, has been identified

⁶² Latin American Bishops, *Justice* (1968: [cited 5 October 2002]); available from <http://www.shc.edu/theolibrary/resources/medjust.htm>.

⁶³ Levine, *Religion and Politics in Latin American: The Catholic Church in Venezuela and Colombia*, 39.

⁶⁴ Miguel Obando y Bravo is a Salesian priest who has been Archbishop of Managua since 1970. He was created cardinal by John Paul II in 1985. Obando y Bravo is a prominent and controversial figure in Nicaraguan politics and a strong critic of liberation theology.

as a direct function of his political sympathy towards conservative and oppressive governments that existed in Nicaragua. Kirk cited Obando y Bravo's 'inconsistent, even hypocritical, attitude regarding the role of the Church in politics'⁶⁵ as evidence. He argued that Obando y Bravo consistently maintained close personal connections with senior conservative political figures and opposed the efforts of many of his priests to work for a more just society because of its threat to the established political order. His political support was reciprocated with State support for the Church as part of the establishment. That State support however was for the institutions of the Church, seemingly not for the more broad membership that more truly comprised the Church. This is an important distinction. Kirk explained Obando y Bravo's position:

...in an effort to stabilize its influence and to protect its own social identity thereby strengthening its capacity to evangelise, the Church leadership has tended to side with those exercising power and influence. The end result is that in general the Church has been co-opted, choosing to look after its own interests, temporal as well as spiritual as its primary objective. Thus charity was often preferred to social justice, since the latter could well lead to an examination of the Church's political allegiances - effectively reducing the institution's own well being and influence.⁶⁶

The effective challenge to the post-Second Vatican Council Church has been to broaden its perspective of how it should function in and relate to the wider world. The Nicaraguan example demonstrates that the responses of individual churches to this newly expressed approach have been significantly influenced by political preferences of senior prelates which are inconsistent with the magisterium, and by the political ease or otherwise of carrying out such a mission within their respective jurisdictions.

⁶⁵ Kirk, *Politics and the Catholic Church in Nicaragua*, 211.

⁶⁶ Ibid., 214-215.

The positions of prelates like Obando y Bravo lack credibility because of inconsistent interpretations of politics. Kirk argued that the key to Obando y Bravo's inconsistency was that it was he who determined

the very parameters of political activity, and in doing so... defines those facets that [he] regards as unwholesome.⁶⁷

Therefore he could participate 'overtly in political matters' by narrowing his definition of politics to include only those things of which he disapproved.⁶⁸

***Evangelii Nuntiandi* and the Puebla Conference**

Paul VI responded to liberation theology in his encyclical letter *Evangelii Nuntiandi* in 1975. While this letter's concern was with the broad theme of evangelisation in the modern world, it also paid attention to the political implications of evangelisation. Paul commended efforts to overcome those things which condemn people to the 'margin of life',⁶⁹ but he also explained why the Church's interest in the material needs of those on the 'margin of life' must remain a religious, not a political and temporal project.⁷⁰ Paul warned against any tendency to

reduce her [the Church's] aims to a man-centred goal; the salvation of which she is the messenger would be reduced to material well being. Her activity, forgetful of all spiritual and religious preoccupation, would become initiatives of the political or social order.⁷¹

⁶⁷ Ibid., 212.

⁶⁸ Ibid., 212.

⁶⁹ Paul VI, *Evangelii Nuntiandi* (Vatican City, 1975: 30 [cited 7 January 2000]); available from http://www.vatican.va/holy_father/paul_vi/apost_exhortations/documents/hf_p-vi_exh_19751208_evangelii-nuntiandi_en.html

⁷⁰ Ibid., 32.

⁷¹ Ibid., 32.

Paul was concerned that if the Church's message of liberation became a political message it would lose its religious originality and expose itself to political manipulation. As a result the Church would lose its 'authority to proclaim freedom in the name of God'.⁷²

In the early months of the pontificate of John Paul II, the bishops of Latin America met in Puebla, Mexico, where they discussed *Evangelii Nuntiandi* and were addressed by the new Pope. John Paul has become one of the strongest opponents of liberation theology, and his

main enemy, since his election in 1978, has been modern secularism. For the Pope, liberation theology is part of this secularism. All human activity, John Paul has said, must have reference to the ultimate meaning of life, which is eternal salvation. While seeking to concentrate their efforts on life here and now, modern people have forgotten this essential truth.⁷³

This does not mean that the 'here and now' is unimportant when it is placed within the context of eternal salvation. It means that like anything, it is unimportant when divorced from that context. For the Church therefore, political activity is not valid in its own right, or as an end in itself. Political activity only gains religious legitimacy insofar as it relates to the 'complete and integral salvation' discussed by John Paul.⁷⁴ He was however careful to stress that the impropriety of replacing religious objectives with political ones did not relegate the political to a position of unimportance. The real issue for John Paul was what makes the political important, and from what perspective should political objectives be pursued.

The Church's activity in such areas as human promotion, development, justice, and human rights is always intended to be in the service of the human being, the human being is seen by the Church in the Christian framework of the anthropology it adopts. The Church therefore does not need to have recourse to ideological systems in order to love, defend and collaborate in the liberation of human beings... it is

⁷² Ibid., 32.

⁷³ Lynch, *The Retreat of Liberation Theology*.

⁷⁴ John Paul II, *Opening Address at the Puebla Conference*, 1-4.

therefore not out of opportunism or a thirst for novelty that the Church... defends human rights. It is prompted by an authentically evangelical commitment, which, like that of Christ, is primarily the commitment to those most in need.⁷⁵

This speech to the Puebla conference reaffirmed the theological requirement for political activity in a religious context, and the Australasian Churches can draw from it an endorsement of their contemporary interest in indigenous self-determination. From it they can also draw guidelines for ensuring that their contributions to debate remain religiously authentic, and avoid the risk of being reduced purely to the political.

For the Church a political objective has no relevance if it is removed from the religious sphere. Therefore John Paul told the Puebla conference that:

Today we find in many places a phenomenon that is not new. We find “re-readings” of the Gospel that are the product of theoretical speculations rather than of authentic meditation on the word of God and a genuine evangelical commitment. They cause confusion insofar as they depart from the central criteria of the Church’s faith...⁷⁶

His address warned against seeing Jesus as a political activist. To present him as a revolutionary or subversive was inconsistent with ‘the Church’s catechesis’.⁷⁷ The Pope was particularly concerned that Jesus’ death not be interpreted as the result of political conflict. Instead, the Church teaches that his death was essential to his broader mission, which had

to do with complete and integral salvation through a love that brings transformation, peace, pardon, and reconciliation.⁷⁸

John Paul’s purpose has been to resist attempts to use the Church to support partisan political positions, on the one hand, while on the other to emphasise the ‘preferential option for the poor’ as an inescapable religious duty. In this way John Paul

⁷⁵ Ibid., III-2.

⁷⁶ Ibid., I-4.

⁷⁷ Ibid., I-4.

⁷⁸ Ibid., I-4.

places the moral responsibility squarely on the Christ-informed person as citizen rather than on some presumed Church Political.⁷⁹

That duty is not diminished merely because attention to it will necessarily constitute a comment on political decisions, and will necessarily identify what the Church regards as part of an ‘unjust social order’. In Australasia this has focused Church attention on indigenous political concerns in a more systematic and thorough manner and with more concerted care to ‘scrutinise the signs of the times’⁸⁰ by responding to the impact of secular political decisions.

Instruction on Certain Aspects of the “Theology of Liberation” and Instruction on Christian Freedom and Liberation

For the Australasian Churches further instruction on how contributions to debate on indigenous concerns should be conducted is available in the Congregation for the Doctrine of the Faith’s⁸¹ more detailed discussion of liberation theology. It was not the Congregation’s intention to dismiss liberation theology. It endorses its focus on the preferential option for the poor and structural features of society which contribute to poverty, however its main purpose is to note and dismiss particular tendencies within what is a large and diverse body of discourse to emphasise Marxist thought over that of the Church.⁸²

The Congregation developed John Paul’s view that the Church has no need to draw on ideological political theories to inform its contribution to the material well being of

⁷⁹ Quentin L. Quade, 98.

⁸⁰ Paul VI, *Populorum Progressio*, 13.

⁸¹ The Congregation for the Doctrine of the Faith was established in 1542. Its function is ‘to promote and safeguard the doctrine on the faith and morals throughout the Catholic world’ Congregation for the Doctrine of the Faith, *Profile* (Vatican City: [cited 6 October 2002]); available from http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html.

⁸² Sacred Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the “Theology of Liberation”* (Vatican City, 1984: VI, 8-9 [cited 10 January 2000]); available from <http://www.ewtn.com/library/CURIA/CDFLIBRI.HTM>.

human kind. In 1984 the Congregation published an *Instruction on Certain Aspects of the "Theology of Liberation"* and in 1986 an *Instruction on Christian Freedom and Liberation*. Both were published on John Paul's instruction, and the second was to be read in conjunction with the first.

In the *Instruction on Certain Aspects of the "Theology of Liberation"* the expressed concerns were that liberation theology emphasised the Marxist explanation of class struggle and focused on the political implications of scripture at the expense of scripture's other purposes. It also warned against 'the politicization of existence'.⁸³

Therefore, the document's purpose was to

draw the attention of pastors, theologians, and all the faithful to the deviations, and risks of deviation, damaging to the faith and to Christian living, that are brought about by certain forms of liberation theology which use, in an insufficiently critical manner, concepts borrowed from various currents of Marxist thought.⁸⁴

The Congregation's commentary was a detailed and authoritative discussion of how, when and for what purpose the Church should enter political debate in modern times. It had significant implications for the Australasian Churches' responses to their indigenous populations because it clarified and re-emphasised for the Church worldwide the proper nature of the Church's relationship with the body politic. Most importantly that clarification notes that there is such a relationship, but that it is one motivated purely by religious objective, not political ideology. Political ideology is to be avoided as a motivating factor because it is beyond the Church's interpretation of its own competence, but also from a simple pragmatic point of view that an alignment with whatever political position is likely to undermine the Church's ability to present its wider message with religious authenticity or with public credibility. For example in Australia although there

⁸³ Ibid., 17.

⁸⁴ Ibid., Introduction.

have been examples of the Church being criticised for supposedly taking a partisan position in support of indigenous interests, allegedly at the expense of white interests, an examination of Church contributions to native title debate in particular suggests that the criticisms are not well founded.⁸⁵ Nevertheless a genuine

standing of neutrality gives the Catholic Church a good entry point to influence policy dialogue at the national level, bringing governments and community organisations to the discussion table.⁸⁶

The *Instruction on Certain Aspects of the 'Theology of Liberation'* argued that the message of the Gospel is one of 'freedom and a force for liberation', and that liberation is firstly and most importantly liberation from 'the radical slavery of sin'. The relationship of liberation from sin to liberation from political oppression or injustice, is that these political conditions arise from human sin 'and so often prevent people from living in a manner befitting their dignity'.⁸⁷ Therefore, for the Church, political concern is important. However the point that interested the Congregation was that

faced with the urgency of certain problems, some are tempted to emphasise, unilaterally, the liberation from servitude of an earthly and temporal kind. They do so in such a way that they seem to put liberation from sin in second place, and so fail to give it the primary importance it is due.⁸⁸

It was also carefully explained that the instruction was not a criticism of those who wish to exercise the 'preferential option for the poor', nor is it an excuse for 'indifference towards challenging human suffering'. The Church's view of its responsibility to people was expressed unequivocally:

⁸⁵ This argument is considered in Chapter 7.

⁸⁶ Margaret Valadian, "An Indigenous Perspective on Social Action and the Eradication of Poverty". Paper presented at the People First Conference, 1997, 37.

⁸⁷ Sacred Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the "Theology of Liberation"*, Introduction.

⁸⁸ Ibid., Introduction.

... more than ever, the Church intends to condemn abuses, injustices, and attacks against freedom, wherever they occur and whoever commits them. She intends to struggle, by her own means, for the defence and advancement of the rights of mankind, especially of the poor.⁸⁹

On the matter of 'social sin', which is the form of sin that most concerns the Australasian Churches' interest in indigenous affairs, the document pointed out that reforming social structures, while important, could not be seen as an end in itself. Social and political structures, whether good or evil are the result of human choice and action,

the root of evil, then, lies in free and responsible persons who have to be converted by the grace of Jesus Christ in order to live and act as new creatures in the love of neighbor and in the effective search for justice, self control, and the exercise of virtue.⁹⁰

Social reform alone is inadequate. The human sin which created the sinful social order must also be addressed, because 'only a correct doctrine of sin will permit us to insist on the gravity of its social effects'.⁹¹ That is, sin emanates from human free will and disturbs the human relationship with God.

Therefore it is only by making an appeal to the person and to the constant need for interior conversion, that social change will be brought about which will be truly in the service of man.⁹²

In an *Instruction on Christian Freedom and Liberation* it was explained that for man 'an unjust social order is a threat and an obstacle which can compromise his destiny'.⁹³ It is on this ground, not ideological grounds that the Church justifies its engagement in politics.

⁸⁹ Ibid., Introduction.

⁹⁰ Ibid., 15.

⁹¹ Ibid., 14.

⁹² Ibid., 8.

⁹³ Sacred Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation* (Vatican City, 1986: III 32 [cited 10 January 2000]); available from <http://www.ewtn.com/library/CURIA/CDFLIBR2.HTM>.

Summary

The continually changing appearance of the modern Catholic Church reflects that its mission is not confined to just one set of political, social, cultural and historical circumstances. It responds to and carries out its work within diverse and changing environments. If the Church is to exist credibly in the political world it can not allow its theology to be manipulated by senior prelates to further their individual preferences or prejudices, while at the opposite extreme it cannot become a political lobby group, with only secondarily a religious purpose. The Church cannot fulfil its self-identified mission if it allows political expediency solely for the safeguarding of material interest. Nor can it exist with any credibility, in its own terms, if it links the political so closely with the religious that religion is relegated to a secondary purpose. The adoption of partisan positions on the policy questions of the day from a purely political perspective would surely reduce the Church in the public mind to a political lobby group. On what basis might a political lobby group effectively present a higher religious message, particularly in the largely secular societies of Australia and New Zealand?

In contrast to the extremes of Latin America the contemporary Australasian Churches have created a position that allows support for justice and self-determination for indigenous peoples to be expressed in a political context, but as religious objectives. Although it has not always been the case, the contemporary Churches have found a middle ground that reflects the opportunity for political participation that pluralist democracies provide, as well as reflecting preferences of the hierarchies of the Churches. Operating as they do, as minority religious groups, the Churches in Australia and in New Zealand have not had such a close relationship with civil government. This has

strengthened their ability to take independent positions on a wide spectrum of political ideas. For these Churches the significance of the liberation theology debate on their responsibilities to indigenous peoples is not liberation theology itself, but that the Holy See's response to it clarifies and reinforces their relationship with indigenous peoples in a political context.

CHAPTER THREE

‘general apathy, with intermittent stirrings of a troubled conscience’¹

The Australian Church and Indigenous Australians before the Second Vatican Council

Introduction

In the nineteenth and early twentieth centuries the Church in Australia was influenced by contemporary secular thought to such an extent that it failed to meet its ideals as an institution that is ‘in, but not of, this world’. The political context of nineteenth century missionary practice was one of both settler hostility to black Australians and State suspicion of the Church. A forceful and effective religious response to the indigenous predicament from an institution that was itself socially and politically marginalised was therefore difficult. As well as being inhibited in its theological expression by the influence of contemporary secular circumstance, the Church compromised itself to some extent and at some times, by its poor political judgement. Generally, but by no means exclusively, that contemporary context saw the political implications of a consistent theology put to one side. Yet there were a number of exceptions to this general rule which illustrates that where there was an inclination and an alertness to the formation of alliances of common aspiration, along with an acceptance of a distinction between the missionary’s faith and culture, Church personnel were in fact able to advance their Church’s magisterium – albeit often on the basis of paternalistic interpretation - clearly and forcefully within an often hostile political climate. As it was for the New Zealand missionaries who approached Maori schooling with a respect for language and culture, it was their wider awareness of the magisterium, not a desire for political activism for its

¹ Eugene Stockton, “Maverick Missionaries: An Overlooked Chapter in the History of Catholic Missions”, in *Aboriginal Australians and Christian Missions*, ed. T Swain and D Rose. Adelaide: ASSR, 1988, 202.

own sake that set prelates like Polding, Salvado, Brady, Tenison Woods, McKenzie and McNab apart from their religious contemporaries in Australia. A brief description of the practical sympathy these prelates showed indigenous Australians suggests by way of contrast that those who preferred silence created an important barrier to the fulfilment of religious obligation. The Australian Church did not share the false assessment that racial harmony prevailed, which further impeded the articulation of religious principle in the New Zealand political sphere. But at least until the Second Vatican Council, both Churches shared a general but not absolute inability to recognise the State's compromising of human dignity through policies of racism. It was in part because of this lack of recognition, that a magisterium which maintained principles advantageous to indigenous peoples in the prevailing political climate was not fully or forcefully articulated with any consistency.

***Terra nullius*: The British Claim to Australia**

Australia was claimed for Britain by right of discovery in 1778. The claim was, Reynolds argued, based on a 'Self-serving Eurocentric jurisprudence'² of convenience, suggesting that Australia was '*terra nullius*', an unoccupied land. This was in spite of its Aboriginal inhabitation for at least the preceding forty thousand years. The legal status of this claim was overturned in 1992 when the High Court of Australia found that at the time of the first British settlement: 'The lands of this continent were not *terra nullius* or practically unoccupied'.³

² Henry Reynolds, *Aboriginal Sovereignty: Reflections on Race, State, and Nation*. St Leonards, New South Wales: Allen and Unwin, 1996, xii.

³ *Mabo and Others v. Queensland (No. 2)*, 175 CLR 1 F.C. 92/014 (1992). High Court of Australia.

It was eighteen years after James Cook's 'discovery' and one hundred and seventy two years after the first recorded European visit to Australia by Spanish sailors in 1606 that the First Fleet arrived in Sydney Harbour in 1778. The fleet contained eleven ships and fifteen hundred people, half of whom were convicts. The purpose of this original fleet's arrival in Sydney - the establishment of a convict settlement - gave Britain an immediate pragmatic purpose for occupation, which did not apply to its early interest and subsequent claim of sovereignty over New Zealand. The different foundation of the two States in English law had on-going implications for their subsequent creation of national identities. New Zealand's national day (6 February) marks the signing of a Treaty between the Crown and Maori chiefs at Waitangi in 1840, while Australia's is celebrated on 26 January, not because it commemorates the negotiation of any accommodation with the Aboriginal peoples, but because it was the date of Governor Phillip's arrival in Sydney in 1788.

That Australia's first white settlers arrived to form a convict colony may have heightened the negative impact on the continent's original inhabitants. William Ullathorne,⁴ suggested that the transportation of convicts had made Australia a 'cesspool', and had a particularly negative impact on Aboriginals.

The naked savage, who wanders through these endless forests knew nothing monstrous in crime, except cannibalism, until England schooled him in horrors through her prisoners.⁵

This view that the British 'civilisation' to which the 'savage' was introduced was one of crime helped inform the later Catholic view that segregation of black from white on

⁴ William Ullathorne became the first representative of the institutional Church in 1833 when he was appointed Vicar-General to the Bishop of Mauritius.

⁵ Ullathorne in O'Farrell, 1977: 1.

mission stations was a suitable pragmatic response to settler aggression. Hughes has explained the impact of the initial convict colonies on black Australians in this way:

For the original Australians, then, the arrival of the convicts was a catastrophe. Perhaps they might have suffered less if New South Wales had been colonised by free emigrants who were, at least notionally less brutal; who had a less obvious investment in kicking a subject class. The more opportunistic the settlers were... the more they spoke of civilisation and racial superiority, reflecting that even their diseases facilitated Destiny's plan for the blacks. It was thin, embittered comfort; but it was one of very few the system offered its white subjects, at the end of their own deracination.⁶

The penal settlement in New South Wales eventually became insufficient to accommodate the growing numbers of people who, under Britain's penal code, were transported to Australia. In response, new settlements were established in Van Dieman's Land (now Tasmania) and in the vicinity of the present Queensland capital, Brisbane. Later, separate settlements were established in the areas that have become Adelaide, Perth and Melbourne. In 1889 the Torres Strait Islands were annexed by the State of Queensland. The six Australian colonies federated to become the Commonwealth of Australia on 1 January 1901. New Zealand considered membership but ultimately chose not to join the federation.⁷

Terra nullius prevailed in Australia partly because of a view that the Australian Aboriginal was a barbarous savage with no recognisable political system and with no claim to sovereignty over the land occupied. The Aboriginal peoples were numerically sparse, and lived a nomadic lifestyle which contributed to the British view that they did not 'own' the land in a sense to which the British could relate. The British view had been

⁶ Robert Hughes *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868*. London: Collins Harvill, 1987, 281.

⁷ For discussion and reference to wider debates concerning New Zealand's decision not to join the Commonwealth of Australia see James Belich, *Paradise Reforged: A History of the New Zealanders*. Auckland: Penguin, 2001.

given theoretical articulation in the work of the seventeenth century English political theorist John Locke, whose theory of property excluded hunter-gatherer peoples from the ownership of land. This argument of the founding father of liberal political theory held that only people who mixed their labour with the land, altering and making it into something new could claim to own it.

God, when He gave the world in common to all mankind, commanded man also to labour, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth – i.e. improve it for the benefit of life and therein lay out something upon it that was his own, his labour. He that, in obedience to this command of God, subdued, tilled, and sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him.⁸

This claim provided a philosophic rationale for the agricultural-industrial settlers to take ‘unowned’ land from hunter gatherer peoples. The philosophic rationale was given clear expression by the claim of the *Sydney Herald* in 1838 that the Aboriginal peoples of Australia had failed to acquire any property rights over the lands they occupied.

This vast country was to them a common – they bestowed no labour upon the land – their ownership, their rights, was nothing more than that of the emu or the kangaroo. They bestowed no labour upon the land and that – and that only – it is which gives a right of property to it.⁹

Furthermore, although Aboriginal communities could be found throughout most parts of the continent, each maintained its own language, lifestyle and religious traditions. This subsequently made it very difficult for any co-ordinated political resistance to take place. A political climate in which the work of the Church was often ineffective was created by settler aggression towards Aboriginals. A more rapid and more brutal acquisition of political dominance by settlers over the indigenous peoples than was the case in New

⁸ John Locke, *Locke on Civil Government*, ed. Henry Morely, second ed. London: Routledge and Sons, 1887, 207.

⁹ *Sydney Herald* 7 September 1838.

Zealand ensued because of that hostility, and by the mid-1830s anti-Aboriginal sentiment had become so entrenched that even the view of a British House of Commons select committee carried little weight in the Australian colonies. In 1837 a select committee said that Australian Abotiginals

suffered in an aggravated degree from the planting amongst them of our penal settlements... the land has been taken away from them without the assertion of any other title than that of superior force.¹⁰

Geography and indigenous political structures were further explanatory factors. In New Zealand the less geographically disperse indigenous population had greater capacity for co-ordinated political resistance through, for example, the King Movement¹¹ established in 1858 and later the Ratana Movement¹² founded in 1918.

By the end of the nineteenth century, however, there was a degree of Aboriginal participation in the growing colonial economy, which if it had been allowed to continue may have seen the political influence of the indigenous peoples develop in a different way. Instead, governments throughout Australia initiated policies which isolated Aborigines from white communities and the belief that

Aboriginal and Torres Strait Islander peoples were inferior, had become thoroughly institutionalised as part of the Australian legal and government system in the first decades of the twentieth century.¹³

¹⁰ Alan Whittaker, "An Imprisoned People - Australia 1988", *The Month* Volume 21, October 1988 1988: 884.

¹¹ The King Movement or kingitanga was established to encourage a united Maori resistance to colonial expansion by placing Maori leadership under the authority of a King.

¹² The Ratana Movement was established after a claimed vision by the prophet Tahupotiki Wiremu Ratana and was intended to serve the religious purpose of converting Maori to Christianity and a political purpose of securing a Crown honouring of the Treaty of Waitangi.

¹³ Australasian Legal Information Institute, *Sharing History- the Exclusion and Control of Indigenous Australians* (Australasian Legal Information Institute, 1988: [cited 25 November 2003]; available from <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/car/kip4/10.html>

Sectarian Prejudice

The first recorded Catholic Mass celebrated in Australia took place in a setting of State-created political controversy. An Irish political prisoner James Dixon¹⁴ celebrated the Mass in 1803. Dixon had been transported to Australia for ‘alleged complicity in the 1798 Irish rebellion’.¹⁵ O’Farrell described how the governor’s regulations permitting the religious celebration

stressed that the Catholics, so favored by this ‘Extension of liberal toleration’, must show ‘becoming gratitude’; that the assembly for Mass must never be the occasion of ‘seditious conversation’; that the priest, Mr. Dixon, was fully responsible for his congregation and must exert himself to detect and report any sign of disturbance or disaffection.¹⁶

In a vividly symbolic way Australian Catholicism was thus born a convict Church, in an environment in which religious celebration was seen as a potentially political act. A similar political suspicion to that in which early Irish Catholics in Australia were held was directed at the German Pallottine¹⁷ order one hundred years later when it arrived to manage the mission at Beagle Bay,¹⁸ Western Australia.

The entry of Pallotines to the north-west in 1901 was seen by some as a factor in the Kaiser’s long-range plan for world domination, and the so-called Mission the screen for the establishment of a strategic military base.¹⁹

¹⁴ James Dixon was convicted without trial of leading a group of Irish rebels in 1798 and arrived in Sydney the following year, where he remained ministering to convicts for the following nine years (Salesian Bulletin, *Salesian Bulletin* (June 2000) ([cited 11 November 2002]); available from <http://www.donbosco.asn.au/Bulletins/2000/june/convict.htm>.

¹⁵ Patrick O’Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*. Kensington, New South Wales: New South Wales University Press, 1985, 1.

¹⁶ *Ibid.*, 1.

¹⁷ The Pallottine order or Society of the Catholic Apostolate is a religious community of brothers and priests founded in Italy in 1835 by St. Vincent Pallotti. Members of the Society’s German province came to Australia in 1901. The Society remains involved in Aboriginal communities.

¹⁸ The Beagle Bay Mission was established by the Trappist order in 1890. It was taken over by the Pallottine order in 1901, which continues to serve the mission to the present day. *Catholic Leader* 31 December 1989.

¹⁹ Mary Durack, *The Rock and the Sand*. London: Constable, 1969.

The New Zealand Church was also seen with some suspicion,²⁰ as it established itself in an environment of sectarian prejudice. But it was not a convict Church, and it arrived of its own accord to fulfil a missionary purpose among the Maori population. Its later unwillingness to engage systematically in challenges to State-endorsed affronts to Maori dignity is therefore less easily explicable than the Australian Church's response to the condition of Aboriginal peoples.

O'Farrell suggests that what 'is remarkable about [Australian] Catholicism in these early years is that it did survive at all',²¹ as it was held in such suspicion and maintained a status as an institution on the fringes of society.

Only in New South Wales and Tasmania did Catholicism exist as a religion of men degraded, deserted and physically imprisoned, criminals to the world.²²

But as in New Zealand there remained further contributing factors. A preoccupation with the concerns of the settler Church,²³ Aboriginal suspicion and a belief in European cultural superiority, which was not considered racist, and possibly also a belief that the indigenous cultures would become extinct all contributed to the formation of a Church that was not strongly placed to express religious principle in political context.

At times colonial attitudes towards Catholicism were such that Church expressions of concern for Aboriginals could not have been taken seriously. For example, in 1823 Governor Thomas Brisbane suggested that

²⁰ For example, at Waitangi in 1840 Pompallier thought it necessary to seek an assurance from British officials that religious freedom would be respected in the about to be established British colony.

²¹ Patrick O'Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*. Kensington, New South Wales: New South Wales University Press, 1985, 40.

²² Patrick O'Farrell, *Documents in Australian Catholic History: Volume I 1788-1884*. Melbourne: Geoffrey Chapman, 1969, 61.

²³ Duncan McNab requested further missionary assistance from the Holy See on the grounds that the Australian Church's preoccupation with white settlers prevented it from providing sufficient clerics to work on the Aboriginal missions. Brigida Nailon, "Champion of the Aborigines: Father Duncan McNab, 1820/1896", *Footprints* 4, no. 9 1982, 25.

every murder or diabolical crime, which has been committed in the colony since my arrival has been perpetrated by [Irish] Roman Catholics. And this I ascribe entirely to their barbarous ignorance and total want of education... they are... bereft of every advantage that can adorn the mind of man.²⁴

Brisbane seemingly did not consider Protestant settlers' mistreatment of Aboriginals through organised massacre²⁵ as acts of 'barbarous ignorance' or 'diabolical crime'.

During the 1820s in Brisbane's environment of religious prejudice, Wood has argued that whatever interest the Church showed in Aboriginal welfare was of little consequence.

Association with the Catholic Church, and therefore with Irish Catholics, was not considered by the dominant Protestant elites to be evidence of a civilising process. Quite the reverse. For the first thirty years Catholics had conspicuously abstained from having their children baptised and, wherever possible, from attending any Church of England services. This collective act of defiance, from a group made up largely of Irish convicts and ex-convicts, was interpreted by established church and state alike as an indication of an insurrectionary link between the Catholic faith and potential rebels, and it made Catholicism an instrument of suspicion.²⁶

Wood continues to argue that 'even the loose association' between the Church and indigenous Australians which a Catholic interest in indigenous well-being might imply 'was regarded as a sign of further degradation of both populations and cause for contempt and despair'.²⁷

Voices of Nineteenth Century Protest

In spite of prevailing thought and attitude however, the nineteenth century Catholic Church in Australia, which like the Church in New Zealand, was comprised largely of a non-English clergy, contained a number of vocal critics of government Aboriginal policy who used the political process to challenge attempts to undermine and even destroy

²⁴ O'Farrell, *Documents in Australian Catholic History: Volume I 1788-1884*, 791.

²⁵ For a detailed description and examples of widespread violence and massacre see Henry Reynolds, *This Whispering in Our Hearts* St. Leonards, Australia: Allen and Unwin, 1998, or Norman C Habel, *Reconciliation: Searching for Australia's Soul* Sydney: Harper Collins, 1999, 4.

²⁶ Marilyn Wood, "Nineteenth Century Bureaucratic Constructions of Indigenous Identities in New South Wales", in *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, ed. Nicolas Peterson and Will Sanders. Cambridge: Cambridge University Press, 1998, 42.

²⁷ *Ibid.*, 42.

Aboriginal cultures. The fact that they did so was not remarkable. Their actions were motivated by religious considerations, not political ones, and they could justify the religious propriety of their work. They remained first and foremost Catholic missionaries, not political activists, and did not teach or promote anything inconsistent with their Church's magisterium. By working from a purely religious perspective these people demonstrated the religious invalidity of those in both the Australian and New Zealand clergy who by their silence, or inability to recognise their own political positions as partisan rather than neutral or non-political, overlooked religious obligation to indigenous peoples. They demonstrated that the thinking of their contemporaries compromised the credibility of their Christian message and obstructed the response to indigenous concerns that the modern Church argues would have been desirable.

It was the treatment of Aborigines in Western Australia that saw bishops John Polding²⁸ and Rosendo Salvado²⁹ first bring the Church into politics 'forming habits of open political involvement on this and other issues'.³⁰ In the early 1870s for example, Salvado developed a working relationship with Frederick Weld,³¹ the Governor of Western Australia. Weld had been a Minister of Native Affairs in the government of New Zealand, and was sympathetic to Salvado's urging that 'both races must be placed on one

²⁸ John Polding became Australia's first resident bishop on his appointment as Bishop of Sydney in 1842. He was an Englishman and an outspoken critic of government and settler attitudes to indigenous Australians.

²⁹ Rosendo Salvado was a Spanish monk who established an Aboriginal mission station at New Norcia, Western Australia in 1846. New Norcia was an Aboriginal mission in Western Australia. It was established in 1846 in part to shield Aborigines from settler aggression.

³⁰ O'Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*, 271.

³¹ Frederick Weld was an English Catholic and was a member of the New Zealand Legislative Assembly at various times between 1853 and 1866. In 1860 he was Minister of Native Affairs in the Stafford Ministry where he continued government hostility towards Taranaki Maori. Jeanine Graham, *Frederick Weld* (Dictionary of New Zealand Biography: [cited 14 November 2002]); available from <http://www.dnzb.govt.nz/dnzb/>. His approach to Western Australia's indigenous peoples was not marked by that same hostility during his governorship between 1868 and 1874.

and the same level'.³² But Weld's own natural leanings and the practical support and encouragement of the bishop were not enough to counter the hostile political environment.

In spite of much opposition Weld persisted, and the outcome was various pieces of protective legislation, pilloried and ignored by most of the colonists... however enlightened and humane, the Weld-Salvado legislation of the early 1870s made little headway against colonists determined to exploit and exterminate.³³

The determination to 'exploit and exterminate' was central to the political environment in which the Catholic Church functioned. Yet while the Church officially opposed this objective, the extent of its practical expression of its opposition has varied over time, ranging from apparent indifference to the consistent expression of its values by some prelates within the prevailing political context.

In Western Australia, the first bishop, John Brady³⁴ (1845-1871) and the New Norcia missionary Salvado, took a particular interest in the colony's Aboriginal peoples that set them apart from most of their contemporaries in the eastern colonies. Salvado also stood out for his interpretation of the relationship between religion and politics. In particular, he saw the political lobbying and advocacy that he undertook in support of Aboriginal welfare as an extension of his religious duty.³⁵

Russo has argued that Brady and more particularly Salvado were able to adopt different approaches to those in eastern Australia because it was not a convict colony and was isolated, which gave it an ability to develop its own Aboriginal affairs policies. Further,

³² O'Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*, 272.

³³ Ibid., 272.

³⁴ John Brady arrived in Australia in 1838. He worked among indigenous Australians and prior to his appointment as first Bishop of Perth in 1845 he published in Rome *A Descriptive Vocabulary of the Native Language of Western Australia*. Western Australia Catholic Archdiocese of Perth, *The Archbishop's Predecessors* (2002: [cited 11 November 2002]); available from http://www.perth.catholic.org.au/Archbishop/Predecessors/John_Brady/john_brady.html.

³⁵ George Russo, *Lord Abbot of the Wilderness. The Life and Times of Bishop Salvado*. Melbourne: The Polding Press, 1980, 178.

in Western Australia there was a greater commitment on the part of government officials to extending 'British civilisation and religion, at least to the native people who had not received these benefits'.³⁶ Russo claims that there was relatively less government hostility towards Aboriginal people in Western Australia than elsewhere, and this enhanced the prospects of successful missionary activity.

In 1848 Brady wrote that he wanted to protect Aboriginals from 'maligning whites' by segregating them. He wanted to direct their attention to 'settled habits of industry and to the acquirement of some useful employment'.³⁷ At the same time Salvado was establishing the New Norcia monastery, which included accommodation for Aboriginal people and the development of a farm to provide them with food. Salvado drew a distinction between his faith and his culture, and considered that while it was his duty to teach his faith, it was not his role to attempt to force his beliefs upon Aboriginals.³⁸ Although he had a respect for Aboriginals and their cultures, Salvado saw European civilisation as superior because he considered it offered them a lifestyle more befitting their humanity and dignity. Certainly this attitude was patronising, but not indifferent, as were elements in contemporary Church thinking. Nor were they hostile, as was common in contemporary settler thought. Salvado's was an attitude that accepted an individual religious equality based on a common creation in the image and likeness of God, but rejected a collective cultural equality.

Salvado believed that creating a community of monks and Aboriginals who would work together on an equal footing would give the Aboriginals a sense of belonging, and would remove any Aboriginal notions of inferiority such as he had observed elsewhere. He thought that by their example the monks could demonstrate a

³⁶ Ibid., 121.

³⁷ Brady in Russo, *Lord Abbott of the Wilderness*, 122.

³⁸ Russo, *Lord Abbot of the Wilderness. The Life and Times of Bishop Salvado*, 131.

European lifestyle that the Aboriginal people would want to adopt. His aim was to assimilate, but not by force.³⁹

On becoming a British citizen the Spanish-born Salvado could act in court for Aboriginals, usually charged with stealing settlers' sheep. He believed that charging them with such an offence was unjust because the reason for their stealing was that traditional food sources, such as the kangaroo, had been driven away by shepherds.⁴⁰ From the perspective of Catholic teaching, Salvado's position was justified. For example, Aquinas taught that a person might, if

no other way appears of satisfying his want... take, either openly or secretly, what he needs from possessions of another, nor is this, strictly speaking, theft or robbery.⁴¹

Aquinas justified his position by arguing that:

Human law cannot repeal any part of divine law or natural law. In the natural order of things, instituted by divine providence, material goods are provided for the satisfaction of human needs, and therefore the division and appropriation of property, which comes from human law, should not prevent natural needs being provided for.⁴²

Because the Church teaches that human law derives its authority from natural law, it inescapably follows that the Church must take a particular interest in the natural law's policy implications. Therefore it was remarkable, not that Salvado became involved in colonial politics, but that so few of his colleagues joined him. Russo argued that it was Salvado's religious concerns that inspired his political interests,

precisely because of his religious concern for an oppressed people with whom he had become directly involved. The existing circumstances rather than any desire for public life compelled him to take up their cause as a religious duty. He recognised

³⁹ Ibid., 125.

⁴⁰ Ibid., 133.

⁴¹ Aquinas, Thomas. *Summa Theologiae* 2a, 2ae, lxvi. 7. In Thomas Aquinas, *St Thomas Aquinas, Theological Texts*, ed. Thomas Gilby, trans. Thomas Gilby. London: Oxford University Press, 1955: 234-235.

⁴² Aquinas, Thomas. *Summa Theologiae* 2a, 2ae, lxvi. 7. In *St Thomas Aquinas, Theological Texts*, 234.

the value of political action; he knew his power and prestige in the colony. As head of the country's only successful mission to Aborigines he felt he was qualified and had the right to speak on their behalf. What he needed was a Governor with an interest in Aboriginal affairs equal to the power he wielded in the colony. Such a man was Frederick Weld.⁴³

Weld's sympathy for Aboriginal people was inconsistent with his attitude towards New Zealand's Maori people. It was during his ministry in 1864 that Governor George Grey signed proclamations allowing the confiscation of almost 3 1/4 million acres of Bay of Plenty, Taranaki and Waikato land. If there had been any concession to Maori interests on Weld's part, it was that the area was significantly less than the quantity that the previous Domett and Fox ministries had unsuccessfully asked Grey to confiscate.⁴⁴ In Western Australia, colonial expansion did not require the same disruption to Aboriginal life as it imposed on Maori life in New Zealand. It was, Sorrenson argued, pragmatism, not a response to the degree of military resistance of each of the iwi involved in the wars, that determined what land was taken from whom in New Zealand.

In the selection of the land for confiscation, fertility and the strategic location of land were more important than the owners' part in rebellion.⁴⁵

Western Australia, a geographically extensive and sparsely populated colony, contrasted with New Zealand where continued Maori control of land made colonial expansion more difficult. Also in Western Australia, the negative impact of colonisation had become entrenched by the time of Weld's arrival, and sub-standard living conditions were the reality for many of the colony's native peoples.

⁴³ Russo, *Lord Abbot of the Wilderness. The Life and Times of Bishop Salgado*, 178.

⁴⁴ M.P.K. Sorrenson, "Maori and Pakeha", in *The Oxford History of New Zealand*, ed. W.H. Oliver. Auckland: Oxford University Press, 1981, 185.

⁴⁵ *Ibid.*, 185.

Russo suggested that as a 'devout Catholic' Weld 'joined Salvado in concern' for Aboriginal souls. In order that Salvado and other missionaries could carry out this task, Weld became interested in developing measures to prevent violence towards Aboriginals. He subsidised mission establishments, particularly Salvado's New Norcia, and ensured that land was available for exclusive missionary use. He also introduced measures to address hunger and sickness, and with Salvado worked 'towards integration with the white population'.⁴⁶ Weld considered that the first step towards integration was to enact adequate laws to protect Aboriginal rights. With Salvado, he began to work on a number of policy initiatives concerned with Aboriginal well-being and in May 1873, after lamenting the fact that he did not have the legal training required to draft appropriate legislation, Salvado presented Weld with his 'dummy' Act'.⁴⁷ Russo explained that the objectives of Salvado's Act were to have Aboriginal children protected from exploitative labour, specifically that of a type that he considered they were incapable of physically. However, Salvado also proposed that the directors of native institutions should become the legal guardians of Aboriginals resident in their institutions.

Although Salvado's advocacy of integration with European culture was paternalistic, his motivation - to protect Aboriginals from the very real dangers of white aggression - was a legitimate religious aspiration. His paternalism was inspired not so much by a belief of cultural superiority, as by a conviction that the colonial political environment made protection of Aboriginals necessary. In arguing for integration rather than assimilation, Salvado was not interested in destroying Aboriginal cultures, but wanted them to adopt

⁴⁶ Russo, *Lord Abbot of the Wilderness. The Life and Times of Bishop Salvado*, 187.

⁴⁷ *Ibid.*, 190.

from European civilisation whatever features might enhance their lifestyles and quality of life.⁴⁸

Weld did not necessarily share Salvado's respect for Aboriginal cultures. He did however recognise the Aboriginal right to live without fear of settler violence, and this gave him enough in common to develop a useful but not overly successful working relationship with Salvado. Russo summarised the Weld/Salvado relationship thus:

Salvado and Weld accomplished much in partnership for the welfare of the Aborigines at a time when the trend was towards a steady repudiation of responsibility. During Weld's term of office this trend was arrested; but unfortunately, it was not reversed. He was castigated for his policy of 'nigger coddling' and earned the reputation of being something of a crank. Weld left the colony in 1874.⁴⁹

Salvado's achievements are made all the more significant by their taking place in a political environment made hostile by 'colonists determined to exploit and exterminate'.⁵⁰ However, what is notable for the Catholic Church is that there is a tendency to see priests like Salvado and others who were willing to resist publicly Aboriginal abuse as particularly different from their colleagues. What was different about such people was not that they were political activists, but rather that they were religious activists who stood apart from their contemporaries because they believed that their Church's magisterium applied in a specific political way to their own missions. For them, the magisterium was not some distant theory; it was a guide for their every day work. A wider awareness of the magisterium in this way would have allowed the Church to develop a much more comprehensive response to the indigenous peoples with whom it worked in both Australia and in New Zealand.

⁴⁸ Ibid. 193.

⁴⁹ Ibid. 197.

⁵⁰ O'Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*, 272.

Polding was among those particularly noted for his interest in Aboriginal welfare. In contrast with Jean Baptiste Pompallier's⁵¹ claimed political neutrality, Polding considered it his duty

to lay upon the conscience of all who have property in these colonies the thought that there is blood upon their land.⁵²

He quickly developed a reputation for speaking out strongly against the white exploitation of Aboriginals. He was sensitive to the needs of Aboriginal Australians and regarded them as equal in potential to any European. His anguish at white society's prejudice was evident in the Pastoral Letter published by the Australian Bishops in 1869, which addressed land alienation.

We have dispossessed the Aboriginals of the soil.... In natural justice then, we are held to compensation... the fathers of this council... desire solemnly to lay upon the conscience of all who have property in these colonies the thought that there is blood upon their land, and that human souls, to whom they are in so many ways debtors in the name of natural justice, and in the name of the Redeemer, are perishing because no man careth for them.⁵³

However well-known Polding was for his outspoken criticism of Aboriginal mistreatment, he remained part of only a small group of nineteenth and early twentieth century Church leaders to have taken a significant public interest in Aboriginal well being. In spite of his status as an Archbishop it is clear that Polding did not have the influence within the Church that would have allowed a more comprehensive response to Aboriginal mistreatment. He was

generally unable to influence his fellow bishops to do anything positive for Aborigines' and when in 1885 he was able to secure agreement for an annual

⁵¹ Jean Baptiste Pompallier was New Zealand's first resident Catholic bishop. He was a Frenchman who arrived in New Zealand in 1837. As is discussed in later chapters he is said to have advised Maori against the signing of the Treaty of Waitangi, and although he retained the respect of Maori once the Treaty was signed he counselled against resistance to government aggression.

⁵² John Harris, *200 Years of Aboriginal Encounter with Christianity: A Story of Hope: One Blood* Sutherland New South Wales: Albatross Books Pty. Limited. 1990, 432.

⁵³ O'Farrell, *The Catholic Church and Community: An Australian History (Revised Edition)*, 120.

collection for Aboriginal missions only 795 pounds were collected in a ten year period.⁵⁴

This reflects a lack of interest – possibly a product of racism - in Aboriginal missions among the Catholic laity, as well as the clergy's inability to promote the missions. Among Polding's significant contributions to Aboriginal policy debate were his appearance before a New South Wales Parliamentary Committee in 1845 and his influence on the bishops' pastoral letter in 1869. Polding told the Parliamentary Committee that the effect of forcibly removing Aboriginal communities from their lands would have been devastating, and his view on the widely perceived necessity to 'civilise' Aboriginals also differed from the government position. When he was asked by a committee member whether he was aware that some Aboriginal children had abandoned their civilised ways on becoming adult, Polding asked in reply 'and what harm wa there in that?'⁵⁵

The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tennison Woods

After Salvado had appraised Pius IX of the Aboriginal condition in 1869 the Bishops of Australia issued a pastoral letter that discussed the responsibilities a community calling itself Christian owed to Aboriginals. It was issued with the 'apparent encouragement' of the Holy See,⁵⁶ which reminded the bishops of a 'duty to the Aborigines'.⁵⁷

The letter said that the Church in particular had a responsibility to do what it could to restore the dignity of Aboriginal people. In remaining consistent with earlier missionary

⁵⁴ Harris, *200 Years of Aboriginal Encounter with Christianity: A Story of Hope: One Blood*, 431.

⁵⁵ John Polding, in *New South Wales Aborigines. Report from the Select Committee on the Condition on the Aborigines* Sydney: Legislative Council of New South Wales, 1845, 9.

⁵⁶ Prowse, "Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion", 54.

⁵⁷ Peter J Matheson, "The Catholic Church and Aboriginal Land Rights", 1989, 91.

objectives it did not recommend assimilation into white society, since it considered white society to be the problem.

White men have too often been apostles of Satan, have riveted his chains and confirmed his kingdom.⁵⁸

In describing what might have been, the bishops suggested that

we are held by all claims of natural piety, and kindness, and justice, to give these poor fellow creatures such protection, and such instruction as would more than counterbalance those wretched means of human subsistence from which they are driven... the combined influence and means of the incoming nation, since it professed to be a nation of Christians, should have been applied to protect, and teach, and make disciples of Christ those poor children of the soil... alas! It is shocking to think what has, in fact, been done.⁵⁹

In spite of the forceful tone of the 1869 pastoral letter there remained some within the hierarchy of the Church whose judgement of the political climate was an impediment to a fuller and more consistent response. In describing settler hostility towards Aborigines, James Murray,⁶⁰ Bishop of Maitland, gave governments undue credit for trying to end the abuses which he described.

The bishops of the Plenary Council protest against the cruel persecution which the Aborigines suffer, particularly in the northern portions of Australia, from colonists, who often times spare neither sex nor age, but pursue them even unto death. The fathers of the Council make this protest the more confidently, since they know that, in more recent times, nothing has been left undone on the part of the government to put an end to this iniquitous conduct of some.⁶¹

The suggestion that nothing had been left undone, when in fact the abuses the bishops described continued often unchecked, was clearly an exaggeration. It was an

⁵⁸ The Bishops of Australia, "The Bishops of Australia on Christian Duty to the Aboriginal People", 1869.

⁵⁹ Ibid.

⁶⁰ James Murray was Bishop of Maitland between 1865 and 1909. The tone of the above quote suggests a sympathy for the indigenous predicament but a giving of undue credit to contemporary governmental attempts to cease mistreatment of aborigines.

⁶¹ Murray "Pastoral Letter to the Catholic Clergy and Laity", 14 November 1885 in O'Farrell, *Documents in Australian Catholic History: Volume II 1788-1884*. Melbourne: Geoffrey Chapman, 1969, 124. 124. Contemporary examples of 'cruel persecution' by both state officials and settlers can be found in Reynolds, *This Whispering in Our Hearts*.

exaggeration that ensured that for the Church much would remain left undone in terms of meeting its self-identified obligations to Aboriginal people. Indeed, five years later, the ‘iniquitous conduct of some’ continued in the opinions of the missionaries Julian Tenison Woods⁶² and Duncan McNab.⁶³ Both made their positions public in 1874, with Tenison Woods lecturing against Queensland’s Aboriginal policy after observing the troopers’ ‘indiscriminate shooting’, while McNab objected to the budgeting of £3040 for new training facilities for native police. McNab asked:

Why should the government be so ready and lavish of action and expenditure for their destruction and so cautious and parsimonious in their efforts to civilise them?⁶⁴

By 1884 the experience of several clergy brought into question the bishops’ confidence of fifteen years earlier. For example, Sydney’s new Archbishop, Patrick Moran,⁶⁵ thought it necessary to continue Polding’s tradition of speaking out against the abuse of Aboriginal rights. Moran considered that in the absence of intervention, Aboriginal peoples were doomed to extinction. In order to support his commitment to Aboriginal survival Moran became the first bishop to establish collections for the support of Aboriginal missions within his Archdiocese.⁶⁶

⁶² Julian Tenison Woods was an English priest who held a variety of positions within the Australian Church including several years’ missionary work.

⁶³ Duncan McNab was a Jesuit missionary with a particular interest in Aboriginal mission. In 1878 he addressed his concern for Aborigines to Leo XIII who arranged for the Society of Jesus to take further responsibility for Aboriginal missionary work. McNab was a vocal critic of government Aboriginal policies.

⁶⁴ Michael A Endicott, *The Augustinians in Far North Queensland 1883-1941*. Brookvale, New South Wales: The Augustinian Historical Commission, 1988, 171.

⁶⁵ Patrick Moran was Co-adjutor Bishop then Bishop of Ossory, Ireland from 1872 until his transfer to Sydney in 1884. He became Australasia’s first cardinal in 1885.

⁶⁶ Toby O’Connor, “The Australian Catholic Church’s Pastoral Response to Aboriginal and Torres Strait Islander Peoples”, *The Australasian Catholic Record* Volume 74, no. 3 1997, 285.

In 1892, the Jesuit priest and missionary Donald MacKillop,⁶⁷ commented in the *Sydney Herald* that 'Australia, as such, does not recognise the right of the black man to live'.⁶⁸ MacKillop's judgement was based on prevailing secular colonial attitudes. For example, William Giles, a European explorer trying to reach the west coast of Australia in 1873 described what he saw in the Australian interior.

No creatures of human race could view these scenes with apathy or dislike, nor would any sentient beings part with such a patrimony at any price other than that of their blood. But the great desire of the universe, in the long past periods of creation, permitted a fiat to be recorded, that the beings whom it was his pleasure in the first instance to place amidst these lovely scenes, must eventually be swept from the face of the earth by others more intellectual, more dearly beloved and gifted than they.⁶⁹

MacKillop held that this view remained nearly 20 years later. From a Catholic point of view there was no theological justification for the suggestion that Europeans were more 'dearly beloved' than Aboriginals. Therefore there was no justification for the Church underestimating or down playing the extent of the impact on Aboriginal people of attitudes such as those of Giles, or that expressed in a letter to the *Queenslander* in 1880:

Is there room for both of us here? No. Then the sooner the weak is wiped out, the better.⁷⁰

Yet some prelates continued to overlook the significance of the Aboriginal predicament. For instance in 1894 Robert Dunne,⁷¹ Archbishop of Brisbane, considered that

the mission on the Daly River of course concerns us, but I don't see that it has any stronger claim on us than one on the Haong-ho.⁷²

⁶⁷ Donald MacKillop was a strong advocate for indigenous Australians.

⁶⁸ *Sydney Herald*, 1892.

⁶⁹ William Giles, *Australia Twice Traversed: The Romance of Exploration, Being the Journals of Five Exploring Expeditions into and through Central South Australia, and Western Australia, from 1872 to 1876* London: Low, Marston, Searle & Rivington, 1889, 183-184.

⁷⁰ Quoted in Endicott, *The Augustinians in Far North Queensland 1883-1941*.

⁷¹ Robert Dunne was Bishop then Archbishop of Brisbane between 1882 and 1917.

⁷² Dunne in Endicott, *The Augustinians in Far North Queensland*, 188.

While Endicott⁷³ argued that Dunne's position was not at all exceptional, others among Dunne's contemporaries were able to give practical application to their religious ideals in the difficult political circumstances of the day. Matthew Gibney,⁷⁴ Bishop of Perth, was another example of a prelate who was a vociferous opponent of Aboriginal abuse.

He made his point in the *West Australian* in 1892.

So long as there is traffic in human flesh between certain gross and unscrupulous men, and so long as I consider that the blacks are being cruelly treated under the sacred name of justice, I shall not cease to raise my voice.⁷⁵

In 1893 Gibney followed with the statement that

insatiable hunger and monstrous unscrupulousness are the main factors in that process of removal of which they are the victims. They disappear rapidly on the outskirts of civilisation because in such a situation the white man is practically beyond the cognisance of the law, shoots straight and shoots often.⁷⁶

The 1869 pastoral letter had been significant for several reasons. It forcefully expressed the Catholic position, which stood in marked contrast to prevailing political thought and settler practice. It affirmed the dignity of Aboriginal people, and their right to an existence free of settler violence. The letter also recognised the continued existence of Aboriginal abuse and was unequivocal in its call for that abuse to cease. However it fell down in its assertion that governments were seriously progressing towards ending that abuse. Gibney, MacKillop, McNab and Tenison Woods were all close enough to Aboriginal people in the course of their missionary work to provide an authoritative alternative viewpoint, with McNab and Tenison Woods providing specific examples of

⁷³ Endicott, *The Augustinians in Far North Queensland 1883-1941*, 188.

⁷⁴ Matthew Gibney was Bishop of Perth from 1886 until 1910. He had a strong interest in Aboriginal welfare and initiated the opening of the Beagle Bay mission.

⁷⁵ National Aboriginal and Torres Strait Islander Catholic Council Australian Catholic Bishops' Committee for Social Welfare, Australian Catholic Social Welfare Commission, "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 1996, 26.

⁷⁶ *Ibid.*, 26-27.

governments acting in ways perpetuating, not discontinuing abuse. The bishops' Plenary Council had clearly mis-stated political intent. If a political climate is not accurately appreciated then an effective response is unlikely. In the latter nineteenth century there were the same features in the Australian Church as those which Pompallier had brought to the New Zealand Church – a commitment to humane values based on religious precepts, but no accompanying full or direct challenge to the practices that civil policy allowed to take place.

Duncan McNab's advocacy for Aborigines was motivated by a belief that they had the right to own land, to have their evidence accepted in Court by magistrates and to be taught in their own languages. He argued that they should have access to both reserves and individual homesteads and lobbied for legislation to that effect. Such legislation was enacted but never implemented.⁷⁷ Although McNab did not harbour attitudes of indifference or disinterest to the Aboriginal situation, he perhaps downplayed their circumstances by speaking to Aboriginal communities in 1887 'of the kindly disposition of the government to help them to ameliorate their condition'.⁷⁸

McNab also spoke of a need to 'civilise' aborigines. In itself, the objective of 'civilising' a people, which implies weakening, if not destroying it as a unique culture, was unquestionably inconsistent with the Church's magisterium. That it was so inconsistent had been established by Pope Paul III in 1537. Paul had explicitly instructed South American missionaries not to undermine the liberty of indigenous peoples

Notwithstanding whatever may have been or may be said to the contrary, the said Indians and all other people who may later be discovered by Christians, are by no means to be deprived of their liberty or the possession of their property, even

⁷⁷ Nailon, "Champion of the Aborigines: Father Duncan McNab, 1820/1896", 12.

⁷⁸ McNab "Letter to Cardinal Moran" in O'Farrell, *Documents in Australian Catholic History: Volume II 1788-1884*, 123.

though they be outside the faith of Jesus Christ; and that they may and should, freely and legitimately, enjoy their liberty and the possession of their property; nor should they be in any way enslaved.⁷⁹

In 1622 the Congregation for the Propagation of the Faith reaffirmed that instruction.

Do not regard it as your task and do not bring any pressure to bear upon the people to change their manners, customs and uses unless they are evidently contrary to religion and sound morals... People love and treasure... their own country and what belongs to it... Consequently there is no stronger cause for alienation and hate than an attack on local customs.⁸⁰

If McNab's approach might now be seen as questionable his motivation was not. Influenced by prevailing attitudes, which maintained that Aboriginals were weaker peoples, and by the belief that their dying out was inevitable,⁸¹ McNab saw his European culture as a potential saviour of Aboriginals from what he considered an unnecessary and unjustifiable extinction. In a letter to Moran in 1887 he explained his concern, which was essentially that Aboriginal cultures could not withstand European contact. His response was to induce Aboriginals to adopt 'the principles of our civilisation'.

I tell them that when they were alone in the country, their system was very good, but that now the whites have come, they must adopt another, unless they would die out, that they can and ought to possess property like white men, and transmit it to their children.⁸²

McNab was overlooking the reality that by adopting another 'system' Aboriginals would be displacing their cultures, and would be condemning themselves to extinction as peoples. McNab's concern that Aboriginals survive at least as individuals, although not as peoples, was still more than many in settler society were prepared to concede. His was a rare voice of protest both in his settler community and within his Church. But for

⁷⁹ Paul III, *Sublimis Dei* (Vatican City, 1537: [cited 3 February 1998]); available from <http://www.csn.net/advent/docs/pa03sd.htm>.

⁸⁰ Quoted in Allan Figueroa Deck, "Culture", in *The New Dictionary of Catholic Social Thought*, ed. Judith A Dwyer. Collegeville, Minnesota: The Liturgical Press, 1994, 260.

⁸¹ See Reynolds, *This Whispering in Our Hearts*, 233-235.

⁸² McNab in O'Farrell, *Documents in Australian Catholic History: Volume II 1788-1884*, 123.

McNab just as it was for James Durning, the New Zealand missionary of sixty years later, indigenous culture was not wrong, but it was inadequate. It was not 'civilised' and therefore unbecoming of the dignity belonging to the respective peoples.

MacKillop also saw Aboriginal cultures as inferior to European cultures but did not accept that it was consequently God's will that they should become extinct. In 1892 he conducted a begging tour seeking financial support for the Aboriginal missions. During this tour he described his views on the matter of Aboriginal extinction in the *Sydney Herald*,

she [Australia] marches onward, truly, but not perhaps the fair maiden we paint her. The blackfellow sees blood on that noble forehead, callous cruelty in her heart; her heel is of iron and her helpless countrymen beneath her feet. But we are strong and the blacks are weak; we love British fair play, and having got hold of this continent must have every square foot. Little Tasmania is our model; and I fear, will be, until the great papers of Australia will chronicle, 'with regret', the death of the last blackfellow. There is a feeling abroad too, which might be worded thus - it is in God's providence that the native races here, as elsewhere, must disappear before the British people. This, of course, I do not admit. The laws of nature, not God's providence, require that in given circumstances an inferior race would disappear before a superior, but so do they require that death will follow starvation, or be the consequence of poisoning.⁸³

MacKillop's is not the language of one who considers that governments are genuinely concerned for Aboriginal survival, let alone material welfare. Yet such voices were few.

Flood's explanation for the Church's overall disinterest in Aboriginals was, that

it seems that priests and laity were children of their age sharing the general European attitudes towards aborigines. Moreover, they lacked the insights of social ethics and the understanding of a latter day anthropology, medicine, sociology and economics.⁸⁴

While this may be true, an insight into theology and missiology, not of a latter day nature but of their own day, might have seen an attitude more consistent with the magisterium.

⁸³ Donald MacKillop, *Sydney Herald* 23 December 1892.

⁸⁴ Bernard Flood, "Bishop Doody and the Aborigines", *The Australasian Catholic Record* Vol LVI, no. 2, 1979, 117.

While early and mid-twentieth century missiology was paternalistic, it was not disinterested, and it did not set out to disadvantage Aboriginals. Flood also expressed surprise at the lack of concern for Aboriginals during 'a period of tremendous missionary activity elsewhere, particularly in Africa'.⁸⁵

He also suggested that the pressure for the time of the clergy from Irish Catholics who were seen to have first priority, as well as a language barrier. Unlike other missionary countries such as New Zealand, the languages of local Aboriginals had not been recorded, and were therefore more difficult for local clergy to learn.⁸⁶

A further consideration is that the ecclesiology of the pre-second Vatican Council Church divided the Church into two camps: teachers and listeners, of whom obedience was demanded. There was an authoritarian style of leadership dismissive of free speech, consultation and criticism. This style of leadership prevented the clergy, religious and laity from providing a check on local bishops who put to one side the emphatic teachings of the Holy See on the respect that was owed the dignity of indigenous Australians and New Zealanders. Many bishops in both Australia and New Zealand left a vacuum for theologically motivated engagement in secular debate. The hierarchical structure of superiority and subordination may have suspended the judgement of lay people who did not fill that vacuum.

From the late eighteenth to the mid-twentieth century prelates were influenced by an anthropocentric culture which marginalised nature and the nonhuman world. The Aboriginal religions with the spirituality of the land were thus considered inferior and labelled as the works of the devil.

⁸⁵ Ibid., 117.

⁸⁶ Ibid., 117.

Federation, Indigenous Exclusion and the Stolen Generations

The politics of indigenous-state relationships in Australia and New Zealand have taken place under constitutional frameworks which, while similar, contain important differences. Both countries are constitutional monarchies with the British monarch as their Sovereign, and both operate systems of parliamentary government though with different institutional structures. The Commonwealth of Australia consists of the continent's former colonies as its six states, along with the Northern Territory and the Australian Capital Territory containing Canberra as the seat of national government. The Commonwealth Parliament is bicameral comprising a House of Representatives and Senate. Members are elected to the House from population based single member constituencies under a system of preferential voting. Senators are preferentially elected, with twelve Senators from each state and two from each of the mainland territories. Queensland, the Australian Capital Territory and the Northern Territory are governed by unicameral parliaments, while the remaining five states have bicameral legislatures. The parliaments are elected under various forms of proportional or preferential representation. Unlike the New Zealand Parliament, there is no parliament in Australia that has guaranteed indigenous representation. This exclusion of indigenous Australians from guaranteed participation in the parliamentary process explains in part the different circumstances of the emergence of reconciliation as a political goal. In New Zealand the political context for reconciliation was established through the *Treaty of Waitangi Act 1975*, an initiative of the Maori Minister of Maori Affairs, Matiu Rata. In Australia

reconciliation's momentum was gained through extra-parliamentary initiatives by, for example, the Jesuit legal advisor to the Australian Bishops' Conference Frank Brennan.⁸⁷ The constitution agreed to at federation gave the states considerable autonomy over their own affairs, and drew distinctions between the powers of the states and those of the Commonwealth. These distinctions have been developed and refined by referendums and High Court decisions over the past century. There are three types of government power. These are exclusive national powers, concurrent powers and the reserve powers of states. In the event of conflict between state and Commonwealth law on a matter of concurrent power, then the national law takes precedence. Aboriginal affairs were a reserve power until 1967, when a national referendum gave the Commonwealth the right to make laws in this area. For indigenous Australians, Australia did not in effect become a federation until 1967. As such until 1967 Patrick Moran's prayer to mark the inauguration of the Commonwealth of Australia was in fact a constitutional impossibility for Moran had prayed,

may this be the crowning mission of Australia's Commonwealth: to pull down the barriers that irreligious discord and racial strife would raise, and to erect on their ruins a glorious temple of abiding concord and long-enduring peace.⁸⁸

That reconciliation became a significant religious and political objective during the 1990s indicates that at least until that time Moran's prayer remained unanswered. It also indicates that like New Zealand, Australia has never been a model of racial harmony. The difference between the two countries is that in Australia such pretence was never

⁸⁷ Frank Brennan is a lawyer and priest of the Society of Jesus. He is an Adjunct Fellow in the Research School of Social Sciences at the Australian National University, Honorary Visiting Fellow in Law at the University of New South Wales and Director of Uniya, the Jesuit Centre for Social Justice in Sydney.

⁸⁸ Patrick Moran, In *The Catholic Church and the Centenary of Federation* Australian Catholic Bishops' Conference, 10 May 2001: [cited 1 July 2003]]; available from http://www.catholic.org.au/media/2001/2001_11maystatement.htm

promoted by the Church, which allowed those Australian Church personnel who did present a religious articulation of Aboriginal rights to do so without the influence of a demonstrably inadequate political interpretation. Like the New Zealand clerics who consistently challenged racism in New Zealand rugby, those who opposed racism in Australia found no ideological barrier to the public expression of religious principle. Yet both Churches were in their own terms unsuccessful in attending to the full political implications of the magisterium because the influence of prevailing secular thought impeded a wider acceptance and expression of religious rights in political context.

Aboriginal exclusion from the rights of citizenship was legally sanctioned, for example in the *Commonwealth Franchise Act* 1902. The Act allowed only those Aboriginals who had the franchise in their own states the opportunity to vote in federal elections. In Queensland and Western Australia Aboriginals did not finally enjoy the franchise until 1965 and 1962 respectively, and in the Northern Territory Aboriginals were given the right to vote in 1962. It was not until this time that the Commonwealth franchise was extended to all Aboriginals.⁸⁹

Queensland's *Elections Act 1885* had however allowed Aboriginals to vote if they met an almost impossible freehold requirement. But in 1905 the clause permitting the 'faint chance' that Aboriginals might meet the requirement was amended to ensure their exclusion.⁹⁰ In the remaining states there were no explicit prohibitions on Aboriginal voting, but in some there were effective restrictions. In Victoria for example, from 1856 it had been technically possible for Aboriginal men, and from 1908, Aboriginal women to vote. Many were resident on reserves, and as such were 'inmates' of 'charitable

⁸⁹ John Chesterman and Brian Galligan, *Citizens without Rights: Aborigines and Australian Citizenship* Cambridge: Cambridge University Press, 1997, 15.

⁹⁰ *Ibid.*, 36.

institutions’, and the right to vote was on that basis denied.⁹¹ Although the nature of institutionalised racism was not consistent over time and across states, restrictions on movement, the inability to vote, and state control over almost every aspect of life were among the barriers to a full Aboriginal participation in wider society. An example of this control was Queensland’s *Aboriginals Protection and Restriction of the Sale of Opium Act 1897*. The Act was also of national significance because it ‘was more or less replicated in three jurisdictions’ and it was the ‘principal expression of Queensland government policy for forty years’.⁹² The main regulatory feature of the Act was that it allowed the relevant Minister to order the residence of any Aboriginal in a designated reserve ‘subject to such conditions, as may be prescribed’.⁹³

In response to the tradition of such control, Aboriginal people held a Day of Mourning in Sydney on Australia Day 1938. It was the first public demand by Aboriginal people for full rights of citizenship and equality,⁹⁴ and a protest to mark the ‘150th anniversary of the white man’s seizure of our country’ and to note ‘the callous treatment of our people by the whiteman during the past 150 years’. The assembled Aboriginals appealed

to the Australian nation of today to make new laws for the education and care of aborigines, and we ask for a new policy which will raise our people to full citizen status and equality within the community.⁹⁵

The protest was unsuccessful, and the Australasian Legal Information Institute recorded that in the first half of the twentieth century,

despite occasional rebellion by individuals and groups with limited success, every aspect of the lives of indigenous Australians was rigidly controlled, with families

⁹¹ Ibid., 14.

⁹² Ibid., 39.

⁹³ Ibid., 40.

⁹⁴ Geoffrey Gray, “From Nomadism to Citizenship: A P Elkin and Aboriginal Advancement”, in *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, ed. Nicolas Petersen and Will Sanders Cambridge: Cambridge University Press, 1998, 55.

⁹⁵ Quoted in Geoffrey Gray, 55.

breaking up and homes subject to constant invasion by petty officials. Policy and rule changes affecting the lives of indigenous Australians were frequent and often seemingly arbitrary.⁹⁶

In the same year of the Aboriginal Day of Mourning, Pius XI stated that

Catholic means universal, not racist, not nationalistic in the separatist meaning of these two attributes... We do not wish to separate anything in the human family... The term 'human kind' reveals precisely what the human race is. In must be stated that people are first and foremost all one great and single species, one great and single family of living beings... There is only one human, universal 'catholic' race... and with it and in it, different variations... This is the Church's response.⁹⁷

By the 1950s it had become possible for individual Aboriginals to gain exemption from these laws through the acquisition of a 'dog tag' or certificate of exemption. While the certificates gave Aboriginals access to certain rights enjoyed by the white community, they did not go so far as to confer voting rights upon their holders. An early example of legislation providing for the issuing of 'dog tags' was Western Australia's *Natives (Citizenship Rights) Act 1944*, which provided for an indigenous person who met specified criteria to be granted the full rights of citizenship. They would be

deemed to be no longer a native or aborigine and shall have all the rights, privileges and immunities and shall be subject to the duties and liabilities of a natural born or naturalised subject of His Majesty.⁹⁸

The official objective of the policy of assimilation which had become a widely accepted political goal throughout Australia well before its formal adoption in 1951 was

that all persons of Aboriginal descent will choose to attain a similar manner and standard of living to that of other Australians, and live as members of a single Australian community.⁹⁹

⁹⁶ Australasian Legal Information Institute, *Sharing History - the Exclusion and Control of Indigenous Australians* ([cited]).

⁹⁷ Pius XI, *L'Osservatore Romano* 30 July 1938.

⁹⁸ Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 132.

⁹⁹ Australasian Legal Information Institute, *Sharing History- the Exclusion and Control of Indigenous Australians*.

Under this regime Aboriginal rights remained severely restricted. But it did allow some urban migration, and saw a gradual lessening of protectionism. This made Aboriginal resistance more feasible and an Aboriginal political voice began to emerge which contributed to assimilation's loss of momentum, and saw it replaced with 'policies of integration, cultural pluralism and then self-management' throughout the 1960s and 1970s.¹⁰⁰

As government intruded more and more into their lives, so there developed a great deal of informed opposition to white dominance. [There was] civil disobedience practised by the oppressed, such as the refusal to send children to school, the destruction of property, and the drunkenness which symbolised the ability of Aborigines to circumvent the restrictions placed on the consumption of alcohol.¹⁰¹

The denial of the right of indigenous families to care for their children was a graphic illustration of the state sanctioned exclusion of black Australians from rights taken for granted by other Australians. By 1912 all of Australia's five mainland states had enacted legislation permitting the permanent removal of Aboriginal children from their families, and by deliberate extension, removal from their cultures. The practice of removing indigenous children from their families took place within the wider context of assimilationist and institutionally racist tendencies.

Government policies of assimilation provided the philosophical context in which the removal of indigenous children from their families was carried out. Such a philosophy was inconsistent with the Church's magisterium. Assimilation was not as widely rejected as such in Australia, as it was in New Zealand, where the Church made a concerted effort to endorse and promote the preservation of Maori language and culture through its Maori Catholic schools. Nevertheless there was an irresolvable tension between the Catholic

¹⁰⁰ Ibid.

¹⁰¹ Scott Bennett, *Aborigines and Political Power*. Sydney: Allen and Unwin, 1989, 4.

emphasis on human equality and the secular view of native peoples as inferior to Europeans which saw the magisterial rejection of assimilation underemphasised by Catholic prelates beyond the context of schooling. This incompatibility between religious and political ideology was even more pronounced within the context of the stolen generations. Although Church acceptance of removed children into its care was often reluctant, the fact remains that by its willingness to accept such children the Church made the implementation of the policy easier and therefore perhaps gave it a de facto legitimacy.

While the Church did not publicly endorse the policy of removing indigenous children from their families, nor sanction its broader philosophical goal of assimilation, many of its institutions accepted children who had been forcibly removed from their families. A refusal to co-operate may have put pressure on the viability of the practice. Peter Read explained that the motivation for removing children from their families was

that the Aboriginal population had increased, was increasing and ought to be diminished. The removal and institutionalisation of the children was to be a principal weapon of the new Acts.¹⁰²

In 1963 Paul Hasluck, Minister for Territories, told the House of Representatives:

The policy of assimilation aims at ensuring that all aborigines and part aborigines will attain the same manner of living as other Australians and live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians.¹⁰³

Separated children were placed in the care of state or missionary institutions. Many of these institutions were run by the Church, which consequently facilitated the policy of Aboriginal assimilation. Both the destruction of families and the goal of assimilation

¹⁰² Peter Read, *A Rape of the Soul so Profound*. St Leonards, New South Wales: Allen and Unwin, 1999, 22.

¹⁰³ Hasluck in Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 13.

were inconsistent with the magisterium of the Church. The practice was inconsistent with the central principles of Catholic social thought, subsidiarity and complementarity, which contend that it is not for the State to obstruct the ability of families to exist and provide for themselves. Thomas Aquinas explained that subsidiarity requires the autonomy of social units to be respected, and this autonomy should only be interfered with by a higher social unit, in this case the state, if the exercise of that autonomy compromises the wider common good. Complementarity maintains that it is the duty of the state to ensure that lower social units, in this case families, can in practice exercise autonomy, again provided that the common good is not compromised.¹⁰⁴

Nearly four hundred years before the first of the stolen generations Paul III had explicitly instructed South American missionaries not to undermine the liberty of indigenous peoples¹⁰⁵ and in 1891 Leo XIII had taught that

the contention... that the civil government should at its option intrude into and exercise intimate control over the family and the household is a great and pernicious error.¹⁰⁶

In the twentieth century the Australian Church had no grounds for assuming that these instructions did not apply to how it should view the State's relationship with Aboriginal peoples, although there is limited evidence that that they were given public expression. The present Australian Church does however accept the religious and moral impropriety of its role in the removal of children from their families. As well as expressing its regret

¹⁰⁴ Thomas Aquinas in Alan Cameron, "Law, Justice and the State", in *Voices for Justice: Church, Law and State in New Zealand*, ed. Jonathan Boston and Alan Cameron. Palmerston North: The Dunmore Press, 1994, 50-54.

¹⁰⁵ Paul III, *Sublimis Dei*.

¹⁰⁶ Leo XIII, *Rerum Novarum*, 14.

for that role, it has stated that it will do whatever it can to help the children it cared for to rebuild their lives.¹⁰⁷

In 1996 in its submission to the Human Rights and Equal Opportunity Commission Inquiry into the removal of children from their families, the Australian Catholic Bishops' Committee for Social Welfare acknowledged that a refusal to co-operate may have put pressure on the viability of the practice.

We do accept that there were cases where the actions of Church child welfare services and organisations were instrumental in keeping children separate from their families and in this respect the Church holds some responsibility in playing a role for the state to keep these children separate from their families.¹⁰⁸

The Church has offered several explanations as to why it participated in a practice contrary to its magisterium. The explanations are both political and religious, some convincing and others wanting.

The Church has suggested that it faced political pressure to accept into its care Aboriginal children who had been taken from their families. For example, the Protector of Aboriginals encouraged a belief among the New Norcia missionaries that some of the non-Catholic institutions in which children might be alternatively placed treated the children with a brutality and lack of care that the Church maintained was not its own practice. It was common for the Protector to tell the New Norcia missionaries that if they did not accept a child then that child would be placed somewhere the missionaries were led to believe to be less desirable.¹⁰⁹

¹⁰⁷ Australian Catholic Bishops' Conference, "Reconciliation- a Statement in Solidarity", Media Release, Canberra, 29 May 1997.

¹⁰⁸ Australian Catholic Bishops' Committee for Social Welfare, "Statement To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 18 July, 1986, 1.

¹⁰⁹ Ibid., 32.

The experience of the Beagle Bay mission was similar. The comment of its administrator, George Walter, that 'it is not the duty of a missionary to repress the child's Aboriginal nature',¹¹⁰ indicated that he did not accept the reasons for the State-enforced break up of Aboriginal families. Although New Norcia and Beagle Bay may have genuinely accepted that under the circumstances they were justified in accepting children, the impact their willingness to do so had on the long-term viability of the policy needed to be considered. Indeed if they thought circumstances warranted such an approach they might still have publicly noted the practice's inconsistency with Catholic teaching while accepting the children on the basis of a 'lesser of two evils' argument.

The Church was also put in an awkward position by some Aboriginal parents who voluntarily sought to place their children in the care of Church institutions. Some Aboriginal people considered themselves powerless to protect their children from State removal, and believed that once they were taken there was a likelihood that they would never re-establish contact with them, or even know their whereabouts. Consequently, it became a 'lesser of two evils' to 'voluntarily' place children in Church institutions so that parents would at least have some degree of control over what happened to them and lessen the risk of permanent estrangement.¹¹¹

More recently Sally Morgan's autobiography *My Place* (1987)¹¹² is among several accounts of the continuing impact of the separation policy on those whose families were disrupted.

¹¹⁰ Ibid., 149.

¹¹¹ Ibid. 33.

¹¹² Sally Morgan, *My Place*, Fremantle: Fremantle Arts Centre, 1987, 105. Sally Morgan's autobiography discusses the author's attempt to reclaim her Aboriginal identity which she claims was 'denied her for many years by her family's insistence that they were not Aboriginal at all'. She describes this denial as a 'survival technique'. Fremantle Arts Centre Press, *The Background to My Place* (Fremantle Arts Centre Press: [cited 3 April 2003]); available from <http://members.iinet.net.au/~facp/myplacenotes.html>.

I had accepted by now that Nan was dark, and that our heritage was not that shared by most Australians, but I hadn't accepted that we were Aboriginal. I was too ignorant to make such a decision, and too confused. I found myself coming back to that same question: if Nan was Aboriginal, why didn't she just say so?¹¹³

Not all Catholic missionaries fully appreciated that the magisterium excluded the removal of children from the range of legitimate policy options for settler/Aboriginal relations. Some believed that by removing children from their non-Christian environments they were providing them with the opportunity of baptism and thus the opportunity of salvation. It was widely considered that salvation was restricted to members of the Catholic faith.¹¹⁴ The Second Vatican Council confirmed the error of this belief when it clarified that:

Those who, through no fault of their own, do not know the Gospel of Christ or his Church, but who nevertheless seek God with a sincere heart, and moved by grace, try in their actions to do his will as they know it through the dictates of their conscience - those also may achieve eternal salvation.¹¹⁵

For many Church personnel the situation was as described by Christopher Saunders,¹¹⁶ Bishop of Broome, in his submission to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, made on behalf of the Kimberley Church:

they were very much a product of their age and they believed they were doing the best possible job they could. They saw their contribution to Aboriginal people only in positive terms and they never considered that they were collaborating with a government policy of negative significance.¹¹⁷

¹¹³ Morgan, *My Place*, 105.

¹¹⁴ Australian Catholic Bishops' Committee for Social Welfare, "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 21.

¹¹⁵ The Second Vatican Council, *Lumen Gentium*, 16.

¹¹⁶ Christopher Saunders has been Bishop of Broome since 1996. He is Secretary of the Australian Catholic Bishops' Conference Committee for Aborigines, a vocal advocate of reconciliation and Aboriginal land rights.

¹¹⁷ Christopher Saunders, Statement to the Human Rights and Equal Opportunities Commission. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. Broome. 1996, 5.

Under trying circumstances, and in the belief that their institutions were indeed the ‘lesser of two evils’, these Catholic missionaries may have been justified in thinking that they were doing the ‘best possible job they could’. And as Saunders put it,

it would be another tragedy if they were to become the next victims in this sorry saga simply because in the line of duty they applied themselves to that vocation to the best of their ability.¹¹⁸

They were, Saunders says, like those for whom they cared,

heroes, survivors as they were of a flawed system, innocent victims of a well intentioned yet misguided philosophy, the product of a grossly paternal age.¹¹⁹

Saunders, however, does not explain his argument that it did not occur to the missionaries that they were contributing to the implementation of, if not actually collaborating with, a government policy of ‘negative significance’. The mere fact that the New Norcia missionaries were sometimes pressured into taking children into their care by a Protector of Aborigines who convinced them that the children would be worse off if taken to the alternative institution, suggested a reluctance to participate in the implementation of the policy. Beagle Bay’s refusal to repress the children’s Aboriginal nature suggests a rejection of the whole purpose of removing children from their families, which was not just to repress, but to destroy Aboriginal cultures in an effort to force Aboriginal assimilation into white society.

Aquinas accepted that people are obliged to follow their conscience, even though it may be mistaken, and even though an informed interpretation of natural law is more objectively right than their subjective, ill-informed conscience. ‘Invincible ignorance’ is a mitigation of individual failings, but never of those of the Church as a whole. It is not a valid explanation for the Church’s now acknowledged oversights during the time of the

¹¹⁸ Ibid., 5.

¹¹⁹ Ibid., 5.

Stolen Generations. 'Invincible ignorance' is therefore not an argument put forward by Saunders in his submission. The Australian Catholic Bishops' Conference submission explained invincible ignorance as

a technical expression of moral philosophy, and refers to an ignorance of which the subject is not aware and which he is unable to overcome by him or herself, and makes the subject's conscience erroneous. An act which is performed from invincible ignorance is not voluntary in the sense that the person was not truly free to make a correct judgement of conscience about the rightness of the act. Those performing such acts cannot be held morally responsible for them, even though the act may be wrong in an objective sense. In other words, good intentions do not make an action right, but they may absolve the subject of moral responsibility, either totally or partially.¹²⁰

New Norcia and Beagle Bay missionaries demonstrated by their actions that they were not invincibly ignorant, they knew that removing children from their families was wrong and only reluctantly accepted children into their care as they could not see a better alternative. Whether or not they were correct in the assessment that there was not a better alternative, was not a matter of moral philosophy, but one of pragmatic judgement. The legitimacy of applying invincible ignorance to other missionaries depends on their knowledge and intent. If they genuinely, although erroneously, believed that they were working without prejudice for the good of the children they cared for, then the argument is credible. The Church itself, however, cannot be 'invincibly' ignorant.

The argument that Church people were creatures of their time, and that this therefore diminishes the responsibility that attaches to such prejudice, is not an argument that the Church itself should make, though others may be inclined to make it on its behalf.¹²¹

¹²⁰ Australian Catholic Bishops' Committee for Social Welfare, "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 38.

¹²¹ Ibid., 38.

The clergy should be obedient to authoritative pronouncements of the natural law and of the common good. However obedience to the common good requires practical political knowledge which the Church admits is outside its competence.

Further, the Church does not officially consider that it should be a 'creature of its time'. It has a self-imposed obligation to resist whatever is negative, and whatever is contrary to its teachings, whatever the era and whatever the circumstances.

Do not conform yourselves to the standards of this world, but let God transform you inwardly by a complete change of your mind. Then you will be able to know the will of God - what is good and what is pleasing to him and is perfect.¹²²

Paul inferred that God's truth remains constant whatever the political and cultural circumstances. The Church has consistently taught that racism is contrary to its beliefs, and hence racism does not become legitimate at given times simply because it is accepted within prevailing secular thought. Aquinas explained what the Church teaches as the constancy of God's being. From this, it follows that truth, although progressively revealed, is nevertheless constant.

God is not confined in time, for he is eternal, and without beginning or end. This being is constant, ever present, never altering from past to future. Nothing can be taken away from him... nothing added.¹²³

For the Church, assisting with the assimilationist underpinnings of the policy was wrong in its own terms because that policy's object was to destroy a culture. It also disturbed the natural law, which Aquinas argued is

the inborn light of reason which shows us what to pursue and what to avoid... our reason tells us what to do, our concupiscence urges us to the contrary.¹²⁴

Sigmund considered that what Aquinas argued is good for human beings is achieved by

¹²² Paul's Letter to the Romans, *Good News Bible: Today's English Version*. Chapter 12: 2.

¹²³ Aquinas, *St Thomas Aquinas, Theological Texts*, 36.

¹²⁴ *Ibid.*, 124.

following the order of our rational inclinations. These Aquinas lists as self preservation, an end that human beings share with all substances, family life and bringing up of children, which is shared with all animals... these goals in turn are seen as obligatory because practical reason perceives as a basic principle that good is to be done and evil is to be avoided.¹²⁵

If there is anything positive to be drawn from the removing of children from their families, it is that it gave the Church the opportunity to protect a greater number of Aboriginal people from settler abuse, and in some cases even massacre. The Bishops' Conference submission to the *Bringing Them Home* Inquiry argued that the Church's 'quest for justice' could be seen in the establishment of missions to serve a protective function for Aboriginals. The submission cites the initiatives of Polding as among the many examples. Although it may not have been understood as such, there was an important and powerful political statement being made by those who took Aboriginals into their care to protect them from those who would drive them to extinction. In 1980 a Bishops' pastoral letter spoke of the Church as 'having played a crucial role in saving Aboriginals from extinction over large tracts of Australia.'¹²⁶ In their submission to the Inquiry the Pallotine order said that although

we freely admit and regret our mistakes... we in no way wish to denigrate the memory of a dedicated group of men whose sacrifices, good will and commitment to indigenous people is documented... without their efforts we are convinced the plight of many Aboriginal people would have been considerably worse. In a society, which did not reckon Aborigines as part of the national census, the efforts of dedicated people was even responsible for the very survival of Aboriginal peoples.¹²⁷

¹²⁵ Paul E Sigmund, "Law and Politics", in *The Cambridge Companion to Aquinas*. Cambridge, ed. Norman Kretzmann and Eleonore Stump. Cambridge: Cambridge University Press. 1993, 223.

¹²⁶ Australian Catholic Bishops' Conference, "Aboriginal People", Pastoral Letter, Canberra, 26 August 1980.

¹²⁷ The Pallotine Order, "Submission to the Human Rights and Equal Opportunity Commission. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 1996.

Although in some cases Church personnel expressed, however ineffectively, opposition to the policy, what resistance there was from the Church took the form of minimising, to the best of its ability and understanding, the destructive impact of that policy. In this sense the Church's contribution was worthwhile. But in contributing to the policy at all, the Church contributed towards its feasibility. In acknowledging this point the Diocese of Darwin told the Inquiry that

with the wisdom of hindsight we can only wonder how as a nation, and as a Church, we failed to see the violence of what we were doing. Hopefully today, we are more vigilant about the values we espouse.¹²⁸

Whether by the Church's own criteria this lack of vigilance to its values was excusable rests on a consideration of whether or not Catholic missionaries thought that by withdrawing co-operation they could have undermined the policy to the extent that it had to be abandoned. If they could have collapsed the policy in this way then they were remiss in not doing so. If they considered that such an objective was beyond their power then they do not share moral culpability for the policy. However, where the Church was certainly remiss was in that it did not seriously and vocally challenge both the policy and the philosophical premises on which it was founded.

An examination of a major Australian newspaper the *Catholic Weekly*¹²⁹ during the 1950s provides an example of such 'intermittent stirrings of a troubled conscience'. On the one hand there was a rejection of the mistreatment of indigenous Australians and an acceptance of the propriety of the Church entering political debate in defence of religious objectives. Yet the newspaper was unable to combine these two general principles to

¹²⁸ Tim Brennan, "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", Darwin, 1996, 2.

¹²⁹ The *Catholic Weekly* is the Archdiocese of Sydney's newspaper. It is the largest Catholic newspaper in Australia.

comment on secular political choices that compromised Aboriginals. The tone of the *Catholic Weekly's* observations would suggest that although its motivation did not coincide with that of the state the Church was influenced by popular political rhetoric to the extent that it did not fully appreciate the destructive intent of policies of assimilation. In 1953 for example, the newspaper reported a speech in which Norman Gilroy,¹³⁰ Archbishop of Sydney, observed that bishops

have a serious obligation to the first inhabitants of our country. Australians have failed them in the past, so there is no time like the present to mend our ways and do better in the future... the original inhabitants of Australia and their descendants deserve the best care that can be given to them. The original inhabitants of Australia have also the right to all advantages that have been brought to this country from the Old World.¹³¹

When this remark is set alongside the *Catholic Weekly's* view of the Church's proper relationship with the political order, one might conclude that attending to the fuller practicalities of that relationship was impeded by a political judgement that under-stated the extent of the inconsistency of state practice with the magisterium. The Church has a

God-given duty of influencing... men in their social life; for the Catholic Church speaks in the name of Christ; she speaks as guardian of the conscience of society and interpreter of the natural law, that law which binds all men of all times to right conduct in every department of life.¹³²

So while the *Catholic Weekly* did not suggest that black Australians were inherently deficient it did suggest that 'natives' and 'half castes' needed to be assisted to 'take their place in society and be gradually absorbed into the community' and that there was a 'native problem' in that indigenous people were being 'aided and abetted in all forms of

¹³⁰ Norman Gilroy became Bishop of Port Augusta in 1934 and was transferred to the Archdiocese of Sydney in 1940. He was created cardinal in 1945 and named Australian of the Year in 1970.

¹³¹ Norman Gilroy, in *The Catholic Weekly*, Sydney: 1953, 2.

¹³² *The Catholic Weekly*, 4 June 1953, 19.

vice and scandal by the lower types of white people.’¹³³ It also seems that inconsistent logic and a confused understanding of the states’ purpose in pursuing goals of assimilation compromised the Church’s ability to fully apply the magisterium to a political situation which had widespread implications for the pursuit of religious objective. For example, the Kimberley missionary Ernest Worms¹³⁴ wrote that ‘the missionary strives to preserve old native traditions as far as possible...’ but at the same time:

The missionary will follow a method of cautious and gradual assimilation, in contrast to the more hurrying methods suggested by certain governmental bodies.¹³⁵

Perhaps a more critical consideration of the motivation for the ‘hurrying methods’ of some government agencies might have brought a realisation within the Church that governments’ purpose did not coincide with the noble but naïve assimilationist aspiration of Edward Doody,¹³⁶ Bishop of Armidale, that ‘we have a duty to share with them the good things that God has given us’.¹³⁷ As in the case of New Zealand discussed in the following chapter, paternalism combined with an insufficiently critical acceptance of the motivation behind government policies for indigenous peoples inhibited the extent to which the Church was able to appreciate the inconsistency of those policy objectives with its own magisterium.

¹³³ *The Catholic Weekly*, 21 January 1954, 20.

¹³⁴ Ernest Worms was a Pallottine priest and anthropologist with a particular interest in indigenous languages. He was a member of the secular Institute of Aboriginal Studies.

¹³⁵ Worms, in the *Catholic Weekly*, 16 June 1960, 1.

¹³⁶ Edward Doody was Bishop of Armidale between 1948 and 1968. He had a particular interest in the well-being of the Aboriginal people of his diocese. Although his perspective was particularly paternalistic he did nevertheless make a significant contribution to the improvement of the material well-being of armidale’s indigenous communities.

¹³⁷ *The Catholic Weekly*, 18 July 1957, 5.

Summary

In the hostile social and political environment which was nineteenth and early twentieth century Australia there was a willingness on the part of some Catholic prelates to forcefully express the political implications of a Catholic stance towards Aboriginals. This markedly contrasted with popular political thought and much settler practice. Nevertheless inhibiting political circumstance, poor clerical political judgement and a common, although not universal, unwillingness to see the political implications of a theological position prevented a comprehensive response to political decisions that obstructed indigenous enjoyment of the religious rights that the Church taught was owing them.

The Church did not endorse racism at a theoretical level, but as in New Zealand there was not a consistent public advocacy on behalf of indigenous peoples to indicate an appreciation of the full political implications of the magisterium. However, in Australia there were a larger number of exceptions to this general rule than in New Zealand. The inadequacy of the Church's response to the negative impact on indigenous Australians of certain state policy choices was not its missionary work, which often served a protective function for Aboriginals. The Church's shortcoming was indifference, naivety, and sometimes simply the lack of interest of the wider institutional Church, and most importantly ineffectiveness in responding to secular political pressures 'of this world' which compromised consistent and unapologetic advocacy of 'truth' as it is understood by the Catholic Church.

CHAPTER FOUR

The Political Context of New Zealand Missionary Practice before the Second Vatican Council

Introduction

One might expect a Church that conceives of itself as ‘in this world’ but not ‘of this world’, and that identifies a duty to teach a constant truth,¹ to proclaim consistently its magisterium and to do so without fear of influence by, or compromise with, the secular realm. Yet, as in Australia, the political context of nineteenth and early twentieth century New Zealand missionary practice was one in which the external pressures of colonial aspiration overshadowed established religious principle in Church interpretations of, and responses to, relationships between Maori and the developing systems of colonial and post-colonial government. An exception was the Church’s approach to Maori schooling, which in accordance with the magisterium, emphasised linguistic and cultural preservation, and so stood in marked contrast to the assimilationist objectives of the State. Its opposition to the exclusion of Maori players from All Black teams to play South Africa represented a decisive statement against racism, but while the Church could recognise racism in sport it was seemingly oblivious to it elsewhere. The isolated nature of religious objection to affronts to Maori dignity from the time of the institutional Catholic Church’s arrival in New Zealand in 1838, until at least the Second Vatican Council, is explicable by ideological and practical impediments within the Church itself. There was no consistent and comprehensive Church response to political goals that were not in accord with its understanding of God’s constant truth, in part because of a rigid distinction being drawn by some prelates between religious and political activity. The

¹ Aquinas, *St Thomas Aquinas, Theological Texts*, 36.

concept of religious objectives requiring political means was not adequately considered; this left the Church unable to resist affronts to the dignity that it maintained properly belonged to Maori people. A second important contributing factor was that prelates were often so influenced by popular political and social beliefs that they seemingly accepted and sometimes even promoted government positions of negative consequence or endorsed the popular but demonstrably untrue notion that there was racial harmony or ‘no colour bar’ in New Zealand. An inability to recognise the compromising of its teachings contributed to a general Church impotence in the advocacy of its magisterium, an advocacy which was likely to have been advantageous to Maori in the prevailing political context.

The Settlement and Government of New Zealand

- ✓ The first human inhabitation of New Zealand was from eastern Polynesia and is estimated to have occurred around 800AD.² The early Polynesians lived in permanent settlements where the main food sources were the cultivated vegetable kumara, fish, birds and uncultivated plants. Iwi (tribes), hapu (sub-tribes) and whanau (family) were the units of social and political organisation. The concept of Maori was a British construction of administrative convenience. Prior to 1835 the descendants of the first Polynesian settlers identified themselves solely by membership of a tribal group and there was not a conception of a Maori nation or Maori race. The use of the word to refer to a Maori race arises from the phrase ‘tangata maori’ or ‘ordinary people’ of New Zealand.

The first known European visit to the islands that have become New Zealand was in 1642 by the Dutch sailor Abel Tasman. He was followed in 1769 by the British explorer James

² Janet Davidson, “The Polynesian Foundation”, in *The Oxford History of New Zealand*, ed. W. H. Oliver and B. R. Williams. Wellington: Oxford University Press, 1981, 6.

Cook. These visits were followed by several other European explorers and in the 1790s trade began between Europeans and the New Zealanders. Early trade in flax followed by sealing and whaling further contributed to the Maori economy. British interest in New Zealand grew and its attitude towards intervention changed from one of reluctance to acceptance, culminating in the British claim to sovereignty over New Zealand by virtue of the signing of a Treaty at Waitangi in 1840 and later at other places throughout the country.³ The existence of a Treaty between the colonial British and the Chiefs of New Zealand was important because it represented a less hostile means of establishing sovereignty than had occurred in Australia and did not rely on an assumption that New Zealand was 'terra nullius'. Unlike Australian Aboriginals, New Zealand's Maori population had permanent settlements and political structures that the British could identify. They did not live the nomadic lifestyle that contributed to the British view that indigenous Australians did not own the land on which they lived. Although later Maori resistance was ultimately ineffective, Maori were also very much in a position better to co-ordinate challenges to British imperialism than were indigenous Australians because they were less sparsely populated in a smaller geographic area and shared greater linguistic, religious and lifestyle commonality. Another factor in their favour compared to Australian indigenous peoples was their acquisition and adoption of modern armaments. Belich further explained that money, changing British attitudes and the favourable climate towards British interests were among the reasons for the different colonial approach to that in places earlier colonised.

³ A full discussion of the background to the Treaty of Waitangi and the reasons for the shift in British thinking can be found in Claudia Orange, *The Treaty of Waitangi*. Wellington: Allen and Unwin, Port Nicholson Press, 1987.

British governments around 1840, were overtly at least, reluctant imperialists. Britain had the lion's share of world shipping and industrial trade goods; they got most of the profits from trade with far-flung regions anyway. As long as trade could flow freely with distant regions, why go to the bother of governing them? Whalers got their whales, pork, sex and potatoes, and merchants got their flax and timber in New Zealand, empire or not.... [This view] was reinforced by humanitarian beliefs that empire, despite the best intentions, was often a bad thing for indigenous peoples, and by the Colonial Office's most consistent principle: parsimony, an extreme reluctance to incur new costs.⁴

The initial British reluctance to intervene was lessened by Protestant missionaries in New Zealand arguing for the establishment of a colony in order to 'keep out the papist French, control the agents of vice and facilitate mission work'.⁵ Also there were those, including the vocal and energetic Edward Gibbon Wakefield,⁶ founder of the New Zealand Company, who believed that the solution to Britain's economic difficulties, caused by its over supply of capital and labour, was to move people to new colonial settlements.⁷

The arrival of the Catholic Church in New Zealand was also a product of the conflict between European Catholicism and Protestantism; the associated rivalry between the English who provided the Anglican and Wesleyan missions, and the French who were members of the newly founded Catholic Society of Mary. The speed with which the Marist mission was established

reflected a fear of the known rather than the unknown. The reports of the French explorers Bougainville and Duperry had alerted European Catholics to the large number of native pagans who had already been turned into heretics by Protestant missionaries, and it was in direct response to this aggression that Rome created the new Vicariate of Western Oceania.⁸

⁴ James Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century*, Auckland: Penguin, 1996, 182.

⁵ Ibid., 182.

⁶ Edward Gibbon Wakefield was an English entrepreneur who sought to make money by acquiring Maori land and then selling it to settlers and speculators. His intention was that New Zealand would become a colony replicated on English class and social structures.

⁷ Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century*, 183.

⁸ Philip Turner, "The Politics of Neutrality: The Catholic Mission and the Maori 1838-1870" M.A., University of Auckland, 1986, 13.

The Church quickly gained the interest of the Maori population, for reasons of genuine conversion and because of the attractive personality and character of Pompallier himself. But it was also sometimes because of the political value of Catholicism which contrasted with the Wesleyan and Church of England missionaries, who saw civilisation, as they understood it as a necessary prerequisite to a comprehensible conversion and the capacity for discipleship. In their view this meant that Maori could only become Christian if they first became culturally British. In contrast was the Catholic belief that their faith was universal and not a product of a unique set of historical and cultural circumstances and that it could therefore cross racial boundaries. In short, Maori could adopt Catholicism without rejecting their traditional lifestyles. However, it was because of this aspect that Catholicism unintentionally became

an instrument of Maori politics. Internally, it was caught up in tribal and hapu rivalries which pre-dated and often ignored the coming of the Pakeha but externally it was able to be used as a vehicle of protest and a means of defence of Maori independence and social structure against the intrusive British.⁹

This is a significant contrast with the impact of Catholicism on Australian Aboriginal society when the Church arrived on that continent some forty years earlier. The Australian Church provided protection for Aboriginal people from the negative impact of colonial expansion by isolating from white society those who wished to live in Church mission stations. The Church was however never in a position to be in itself a defence mechanism against the loss of culture and country that the native peoples of both countries suffered. While New Zealand Maori were ultimately dominated politically by the new culture, it did not happen as quickly or as brutally as it did in Australia. As Turner argued these factors and the economic boom that New Zealand Maori were

⁹ Ibid., 84.

experiencing at the time of Pompallier's arrival, contributed to their comparative political strength and ability to see and take advantage of the political opportunity Catholicism provided.

[I]n its tolerance of Maori custom and support for chiefly authority, it seemed to encourage the preservation of a distinctively Maori identity within the worship of a new Atua [God], while its promise of wealth and non-British military support offered material and strategic advantage which some Chiefs were keen to exploit.... It was... a threat of social breakdown, especially as perceived by the Chiefs, that provided Catholicism with its relevance and immediacy within Maori society, as an ally in the conservative resistance to the disruptive forces of change.¹⁰

Although the early contact between the Church and those Maori who, outwardly at least, adopted the Catholic faith was of mutual advantage, the Church was unable to reconcile the conflicting interests of its new adherents with those of the white settlers. /

Although the circumstances of initial colonisation were different in New Zealand, the British intention remained as Markus described,

the record of British colonisation shows that treaties were only a means of deferring conquest until the invaders were strong enough to impose their will. Treaties bought time. They postponed the day of reckoning until the balance of power shifted sufficiently towards the European.¹¹

It is unlikely that it occurred to the colonial powers that developments in both international and New Zealand law would come to see the Treaty as a significant safeguard against the abuse of Maori rights. As history has shown, the absence of similar protection in Australia has been to the significant disadvantage of indigenous Australians. A further contrast between the place of Maori and the place of indigenous Australians in the body politic is the fact that since 1867 Maori have been guaranteed representation in

¹⁰ Ibid., 85.

¹¹ Andrew Markus, *Australian Race Relations, 1788-1993*. St Leonards, New South Wales: Allen and Unwin, 1994, 19.

the New Zealand Parliament. The original reason for guaranteed separate Maori representation was explained in the *New Zealand Gazette* at the time of its introduction.

Whereas owing to the peculiar nature of the tenure of Maori land and to other causes the Native Aboriginal inhabitants of this Colony of New Zealand have heretofore with few exceptions been unable to become registered as electors or to vote at the election of members of the House of Representatives or of the Provincial Councils of the said Colony and it is expedient for the better protection of the interests of Her Majesty's subjects of the native race that temporary provision should be made for the special representation of such Her Majesty's Native subjects in the House of Representatives and the Provincial Councils of the said Colony.¹²

This representation was set at four seats and remains unparalleled in any Australian parliament, and has given Maori an influence in the body politic that Australian Aboriginals have never experienced. The passage of the *Maori Representation Act 1867* reflected that, although Maori were in a position of comparative weakness with the growing settler population, they still remained a numeric and financially significant force. They could not be isolated from the wider nation's political life. The New Zealand Wars¹³ were coming to an end when the Act was passed. The wars had placed further strains on the relationship between Maori and the settler government. Tensions were extraordinarily high, and the government accepted the need for peace measures. It was also under pressure to placate the kupapa – Maori supporters of the government - who were demanding a return on their assistance to the government during the wars. In response to these circumstances and in recognition of the Maori ownership of three-quarters of the North Island, as well as their considerable contribution to the colony's

¹² *New Zealand Gazette*, Volume 47, 1867, 491.

¹³ The New Zealand Wars were battles of authority over different parts of New Zealand fought between the British and various iwi between 1843 and 1872. For a full discussion of these wars see James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*. Auckland: Auckland University Press, 1986.

revenue base, Donald McLean introduced legislation to create the seats.¹⁴ Sorrenson suggests that another reason for the introduction of guaranteed Maori representation was that:

It was a quid pro quo for increased representation for the South Island goldfields. McLean's Bill provided for three Maori representatives for the North, while a government Bill provided for two seats for Westland, thus preserving the existing balance between the two Islands.¹⁵

When McLean's Bill was passed it was envisaged that the four Maori seats would exist only as a temporary measure. It was assumed that with the imposition of individual land title Maori would soon meet the property qualification which was required to vote in what were then referred to as European seats. This became irrelevant however when universal suffrage was introduced in 1893. Maori political pressure saw the seats retained at four until 1996.¹⁶

Maori ministerial representation occurred as early as the 1870s, in spite of Edward Stafford, who was several times premier, saying that he could not imagine Maori ever participating in government as ministers. He thought it 'absurd that they should enter into a Cabinet and take part in the administration of the ordinary affairs of the Colony.'¹⁷ Stafford's view was challenged when in 1872 he was required to appoint two Maori members to the executive in return for the votes which were needed to form his fourth ministry. However this was a short-lived arrangement because one of the Maori

¹⁴ M.P.K. Sorrenson, "A History of Maori Representation in Parliament", in *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*, ed. New Zealand. Royal Commission on the Electoral System, AJHR. Wellington: Government Printer, 1986, B19.

¹⁵ Ibid. B19.

¹⁶ In 1996 the formula for determining the Maori Electoral Population was changed to allow for the number of seats to increase or decrease in accordance with the number of Maori voters choosing to register on a Maori electoral roll as opposed to a general roll, or choosing not to enrol at all. There are currently 7 Maori electorates.

¹⁷ Quoted in Danny Keenan, "A Permanent Expedient: MMP and Maori Politics", *He Pukenga Korero*, no.1 Koanga (Spring) 1996, 60.

members, Parata, withdrew his support when he became alienated by Stafford's attitude towards confiscated land, and the government lost the confidence of the House of Representatives after just one month in office.¹⁸

The smaller size of New Zealand also meant that Maori were not physically isolated out of the way of colonial authorities and settlers. In the early days of settlement colonists were utterly dependent on Maori for trade and sometimes for their very ability to survive in New Zealand. Protection from hostile iwi was often only available from other friendlier iwi. Contact between the settlers and Maori was therefore essential. The development of a political relationship was an inevitable consequence of this. The British presence would not have been sustainable had Britain adopted the attitude that its settlers took to Australia, where a relationship with Aboriginal communities was very often neither needed nor wanted to the same extent. These different circumstances between the early colonial societies help to explain the contrast between the development of indigenous participation in the broader political communities of each nation.

Pompallier, The Treaty of Waitangi and the Waikato War

While there was certainly some suspicion of the Catholic Church in New Zealand, it was not established in quite the same climate of hostility towards its very existence as was the case in Australia. Indeed the Church's first entry into the public policy arena came when the French bishop Jean-Baptiste Pompallier obtained from William Hobson (who became Governor once the Treaty was signed), at Waitangi in February 1840, a guarantee of religious freedom.

I have a matter to put before our Governor. On behalf of the Catholics in this land I ask for the laws in England relating to freedom of worship to be extended to this

¹⁸ Edmund Bohan, *Edward Stafford: New Zealand's First Statesman*. Christchurch: Hazard Press, 1994, 325.

country. The law that I and my adherents would like is to allow all denominations to exist and grow equally in the eyes of the government which is to be set up in New Zealand.¹⁹

Pompallier's part in the Treaty negotiations did not however suggest a broader acceptance of an intertwining of the religious with the political. He was simply securing conditions for the continuance of his work in New Zealand. Indeed, Turner is correct in pointing out that

absolute separation of the religious from the political sphere was the foundation of his political thinking.²⁰

When his advice was sought by a number of Chiefs as to whether or not they should sign the Treaty, Pompallier's response was that it was a political matter and his concern was solely a religious one. But this separation of the religious from the political was later effectively rejected by Pompallier as secular political pressures prompted him towards public standpoints more sympathetic to government than to Maori interests. The political pressures to put the fuller implications of his Church's magisterium to one side overshadowed any effort the Bishop might have been inclined to make towards the seeking out of intellectual alliances of common aspiration with the public realm to give secular context to religious goals.

The impediments to a comprehensive response to the Maori political situation began with Pompallier's inconsistent approach to the relationship between the Church and politics. Often, he did not recognise that the political positions he took (such as his intervention at Waitangi, and his comments concerning the Waikato War), were in fact political positions. Pompallier may publicly have claimed that the 'absolute separation of the religious from the political' prevented him from responding to Maori requests for advice

¹⁹ Pompallier in *Whare Kura* 1923.

²⁰ Turner, "The Politics of Neutrality: The Catholic Mission and the Maori 1838-1870", 2.

on whether or not to sign the Treaty of Waitangi for example.²¹ But there is evidence that Pompallier's public position was not an accurate account of the influence he tried to exert over the Catholic rangatira (chiefs). Although Pompallier did not publicly oppose the Treaty of Waitangi, Hobson suspected him of trying to influence Maori against signing the document - a suspicion later confirmed by the Catholic chief Te Kemara who claimed that Pompallier had advised them not to sign 'because they would become slaves as a result.'²²

If Pompallier indeed saw Maori 'slavery' to the British as a likely consequence of the signing of the Treaty then there was a serious religious issue at stake, and commenting on it was a legitimate function of his religious ministry. Pompallier's attempt to distinguish rigidly between the religious and the political positioned him in contrast with his Australian counterparts the bishops Polding, Brady, and Salvado, and the priests MacKillop, McNab and Tenison Woods who saw religious activism in the political sphere as their indisputable duty. These prelates were motivated by religious not political conviction and their expression was unquestionably consistent with the magisterium. The Church did not require them to mask their positions, just as it did not require Pompallier to remain 'aloof' from politics in the way that he claimed. It was eighty years since Clement XIII had explained the responsibility of bishops to promote publicly Church teachings in his encyclical letter, *A Quo Die*, in 1758.

We advise you concerning the fortitude and strength of spirit needed to oppose those things which are against the orthodox faith, which harm piety or which damage the integrity of moral living. Let us be strong in the spirit of the Lord, in good judgement, and in courage. We should not be like dumb watchdogs unable to

²¹ Ibid., 2.

²² Orange, *The Treaty of Waitangi*, 57.

bark, allowing our flocks to fall prey to looting and our sheep to be devoured by every wild animal in the field.²³

In spite of his apparent misgivings about the wisdom of the Treaty from a Maori point of view, once it had been signed Pompallier's position shifted. He did not publicly question the British understanding of the authority that it transferred to the Crown, and by 1863 he had clearly lost the 'aloofness from politics', that he had once claimed his position demanded.²⁴ During the 1860s, far from remaining aloof, Pompallier took a decidedly pro government position on the Waikato war. Instead of considering the moral implications of the British military action, he exhorted his followers to submit to the authority of the Governor, and by implication to put aside their own interests. Pompallier's intervention was in the name of peace, a legitimate religious concern, and was also motivated by a belief that Waikato could not avoid defeat. 'The little cannot vanquish the great'.²⁵ Although a degree of pragmatism may indeed have encouraged him to this view, Pompallier nevertheless put the responsibility for peace solely on the Waikato people and ignored the role of the aggressor.

Pompallier's exhortation to submission to colonial authority was consistent with Augustinian political thought, discussed in Chapter One.

In contrast the dictum of Thomas Aquinas, which Pompallier did not consider, that 'he who snatches power by force is not truly lord and master'²⁶ indicates that State rule cannot be assumed to hold force if it is not justly acquired. Nor, as Leo XIII later

²³ Clement XIII, *A Quo Die* (Vatican City, 1758: 18 [cited 26 July 1999]); available from <http://www.ewtn.com/library/ENCYC/C13AQUOD.HTM>.

²⁴ Orange, *The Treaty of Waitangi*, 57.

²⁵ Jean Baptiste Pompallier, "Letter to the Catholic Fathers of Maori Tribes", 21 December 1863. ACDA Pom 15-3/8., 1863.

²⁶ Thomas Aquinas, *St Thomas Aquinas, Theological Texts*, ed. Thomas Gilby, trans. Thomas Gilby London: Oxford University Press, 1955, 55.

confirmed, does the authority of the State extend in an unlimited way. Although Leo endorsed Paul's remark he stated that authority is not beyond challenge because

in order that justice may be retained in government it is of the highest importance that those who rule States should understand that political power was not created for the advantage of any private individual; and that the administration of the State must be carried on to the profit of those who have been committed to their care, not to the profit of those to whom it has been committed.²⁷

Nor was human political power intended to override the natural law. Indeed if natural law is the source of the authority of human law and if it is the purpose of human law to give effect to the natural law then the latter can not but have secular political implications. In this view it unquestionably holds that the magisterium applied in a specific way to the political context of the Crown's latterly self described 'crime' of taking land in the aftermath of the Waikato War.²⁸

In a letter addressed to all Maori in his diocese in 1863, Pompallier called for the surrender of Waikato land, without compensation, to the interests of colonial expansion. As Turner points out, he was by this time too close to the settler establishment, the Governor George Grey and the Colonial Secretary, by whom his correspondence with the Ngati Haua chief Wiremu Tamihana Te Waharoa was censored,²⁹ to make any pretence of neutrality.³⁰

I have no doubt that if you write becomingly to the Governor, then happiness will be given not only to you living on land, but also to the prisoners who shall be delivered from their captivity on board of the vessel lying at anchor in the port of Auckland. Do not mind too much the land which will be taken for compensation of the expenses incurred by the military service during the time of war; leave that to the humane decision of the government; for already it is published in the

²⁷ Leo XIII, *Diuturnum* (Vatican City, 1881: 16 [cited 10 April 2003]); available from http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_29061881_diuturnum_en.html.

²⁸ *Waikato Raupatu Claims Settlement Act 1995*, Part I Section 6, subsection 4. Wellington: GP Print.

²⁹ Jessie Munro, *The Story of Suzanne Aubert*, Auckland: Auckland University Press with Bridget Williams Books, 1996, 74-75.

³⁰ Turner, "The Politics of Neutrality: The Catholic Mission and the Maori 1838-1870".

newspapers, that one hundred acres of land should be given to each fighting Maori who will submit to the Queen's authority.³¹

Pompallier's description of this government promise as 'benevolence' and 'maternal solicitude'³² was insensitive to the Waikato position and cannot be seen as anything other than a political stance. The political neutrality that Pompallier had once insisted was required of him was not now borne out by action. Acceptance of government goodwill, in spite of evidence to the contrary, also inhibited the Australian Church's response to State aggression during the 1860s. While James Murray, Bishop of Maitland, was forthright in dismissing settler violence towards Aboriginals, his exaggerated acceptance of government willingness to prevent that violence downplayed the practical significance of the aggression. Murray, like Pompallier, was committed to the humane values that religious precept required. But his mis-reading of political intent prevented a challenge to contrary practice. Pompallier too, mis-read political intent, but was further prevented from challenging affronts to his Church's magisterium by both the political influence he allowed Grey to exert over him and by his very strict interpretation of Augustine's understanding of civil authority.

Pompallier's unwillingness to consider the Waikato position was implied in a letter he received in 1864 from Wiremu Tamihana:

oh friend, the war is over; and if it had been stopped at Rangiriri, we should have been since that time without war, and in perfect peace.³³

The chief's remark is best interpreted as a rebuke to Pompallier's request that Waikato 'remain peaceful by being docile to the laws of civil justice found in the authority of the

³¹ Pompallier, "Letter to the Catholic Fathers of Maori Tribes".

³² Ibid.

³³ Wiremu Tamihana Te Waharoa, "Letter to Bishop Jean Baptiste Pompallier", 9 August 1864, ACDA Pom 15 3/8., 1864.

Queen'.³⁴ The bishop was overlooking Catholic teachings that the authority of a ruler is accompanied by responsibilities to the common good. It is, according to Aquinas, for the common good that human law exists.³⁵ The Church claimed no authority to ask particular groups of people to accept passively the usurping of their right to land. Although Pompallier made this request in the name of peace, an important and proper religious aspiration, there was no obligation for one party in a dispute to allow itself to be overpowered by the other.

So while Pompallier's motivation may have been consistent with the magisterium, his unwillingness to take full account of the Waikato position prevented the Church from challenging the aggressive role of the government and expressing its conflict with Catholic thought. Pompallier did not question government aggression, therefore he compromised his claimed neutrality, and the credibility of the Christian message that he was required to teach.

Pompallier was also concerned at the impact the wars had on missionary activity. This was a further reason for his anxiety that hostilities cease.

The pastoral ministry has been very much prevented by the warfare of the black and the white.³⁶

And there were priests

who could not even remain in their pastoral residences, which became involved in the territories of the hostilities.³⁷

The wars contributed to a growing distrust of the European settlers among Maori, and Pompallier's comments did not offer any reason to lessen that distrust. Nor did those of

³⁴ Pompallier, "Letter to the Catholic Fathers of Maori Tribes".

³⁵ Aquinas, *St Thomas Aquinas, Theological Texts*, 153.

³⁶ Pompallier, "Letter to the Catholic Fathers of Maori Tribes".

³⁷ Ibid.

Francis Redwood,³⁸ Archbishop of Wellington, who was as unsympathetic as Pompallier towards the Maori situation.

From the year 1868, the Maoris were unwilling to listen to their pastors, and the latter, called away to minister to the rapidly increasing Europeans, left the Maoris to their insubordination, and attended to the souls of the Europeans.

Only one missionary kept the secret or spell of making herself respected and listened to by the Maoris throughout this disastrous period – Sister Mary Joseph Aubert, whose influence in Hawke's Bay was immense.³⁹

John Becker,⁴⁰ a member the Mill Hill Missionary Society's⁴¹ Maori Mission discussed the nature of missionary activity in the twenty five-year period following the wars in 1888.

The district entrusted to us has not been visited to all practical purposes for twenty years. Last October I visited a tribe far inland on the southern end of Lake Taupo which had not seen a priest for twenty years, except an old catechist, who year after year took the children of his tribe to Napier, a distance of one hundred miles, to get them baptised.⁴²

A further impediment to the Church supporting Maori concerns arose from prevailing cultural attitudes towards Maori. Most within the Church interpreted its teachings on racism as establishing a duty to respect and not undermine indigenous beliefs and cultural practices, except where these practices were demonstrably opposed to Christianity, such as cannibalism, for example. It was not generally accepted however that the human equality arising from a common creation in God's image established a cultural equality. It

³⁸ Francis Redwood became Bishop of Wellington in 1874 and was Archbishop in 1887 until his death in 1935. In spite of the tone of the statement above Redwood was particularly supportive of Suzanne Aubert's work among Maori in his diocese.

³⁹ Francis Redwood. *Sketch of the Work of the Catholic Church for the Last Half-Century, in the Archdiocese of Wellington, New Zealand*. Wellington: Lyon and Blair, 1887, 47.

⁴⁰ John Becker was superior of the Mill Hill Maori mission from 1886 – 1893. He remained involved in Maori missions in the Auckland Diocese until 1940. William Teurlings, *Mill Hill Fathers in New Zealand* ([cited 19 April 2003]); available from <http://millhill.co.nz/allpersonell.htm>.

⁴¹ St Joseph's Missionary Society was founded in 1866 at Mill Hill in London and is popularly known as the Mill Hill Missionary Society. The order remains involved in Maori missionary work in 2003.

⁴² John Becker, "Letter to Father Goossens, MHM. Director, Mill Hill Mission, Matata", 29 January 1888. ACDA Luc 28-5.

was seen only as an individual religious equality, and notions of European cultural superiority were very much evident in Church thinking. It was not considered racist to maintain that Europeans were ‘civilised’ peoples and that Maori were not. In 1888 Becker wrote to his superior in England that ‘to call the Maoris a savage people would be an injustice to them, and to call them a civilised people would be a misnomer’.⁴³

In seeing Maori as culturally inferior, men such as Becker created a barrier to applying the fuller implications of the magisterium to the Maori political context. It was a barrier that the Church did not adequately remove until the 1970s. Until then theological expression and understanding was overshadowed by a secular political thought based on notions of British superiority and the desire for colonial expansion. It was that same pressure that compromised the ‘neutrality’ that Pompallier claimed but did not in fact practise. His shift from political scepticism about the wisdom of Maori signing the Treaty of Waitangi to encouragement of Maori submission to colonial authority was not a function of religious reflection, but a function of political pragmatism to safeguard his Church in an environment of sectarian prejudice and British suspicion of France.

Voices of Nineteenth Century Protest: *The Freeman’s Journal*⁴⁴ and Vaggioli⁴⁵

Just as in Australia, there were examples within the New Zealand Church of the expression of ideas that may have been politically and socially unfashionable, but were justifiable from a religious perspective. Both the *Freeman’s Journal* and Felice Vaggioli’s *History of New Zealand and its Inhabitants* (1896) were distinctive for their time in their unequivocal dismissal of racism. While racism was not endorsed by the New

⁴³ Ibid.

⁴⁴ The *Freeman’s Journal* was a Catholic paper with a particular interest in Irish nationalism. Its opposition to exploitation of Maori can therefore be seen in the context of its anti-British imperialist motivation.

⁴⁵ Felice Vaggioli was a Benedictine monk who worked in New Zealand in the late nineteenth century.

Zealand Church, its actual existence was not often challenged, and perhaps not even recognised with great frequency. Such was the inhibition that the Church allowed secular political pressures to place upon itself.

In November 1881 *The Freeman's Journal* expressed opposition to the imprisonment without proper trial of the prophet Te Whiti o Rongomai,⁴⁶ whose passive resistance to the settler occupation of improperly acquired land in Taranaki was obstructing colonial expansion. The editorial comment was reasoned and made no pretence of neutrality

His [Te Whiti's] policy was a peaceable one, and he hoped and still hopes, doubtless, to achieve his object without having recourse to open aggression or violence. Firmly and yet graciously he has urged the claims of his people to the land of their fathers, he has protested at short intervals against their confiscation by the Government, and he has held in check with a strong hand those heady and rash spirits who were desirous of engaging in active hostilities with the Europeans.⁴⁷

The paper followed with a significant contrast to Pompallier's early counsel of submission by making one of the first recorded suggestions of reconciliation. Implicit in this suggestion that the government should initiate reconciliation was the view, supported by magisterial authority that it had perpetrated injustice against Maori.

Now that they [the Government] have vindicated our authority and asserted our supremacy, we think that it would be an act both considerate and commendable for them to finish by addressing the grievances which the natives cherish so zealously. When it can no longer be said that fear or intimidation dictated the action, we should set about investigating the complaints of Te Whiti and his people and do them justice. There is no doubt that they have been made the victims of harsh treatment, and despoiled through the insatiable greed of speculators for land, and now we can gracefully stoop to hear their complaints and make them reparation. If for no other reasons then that the rights of hospitality at Parihaka have never been suspended, that war was steadfastly spoken against, and that no incitement whatever has been offered to resist or fight, the natives, and principally Te Whiti, deserve to have their claims enquired into and determined in a generous and indulgent spirit.⁴⁸

⁴⁶ Te Whiti o Rongomai was a prophet who led peaceful resistance to the confiscation of Maori land in Taranaki. In 1879 he disrupted the surveying of land at Parihaka and was imprisoned without proper trial.

⁴⁷ *The Freeman's Journal* 11 November 1881.

⁴⁸ Ibid.

The editorial language differed significantly from the more blunt expression of the paper's columnist 'Justitia' (Justice). 'Justitia' argued from an Irish Catholic perspective of strong anti-British sentiment, to the extent that Te Whiti was being used in support of the Irish nationalist cause led by Charles Stuart Parnell.⁴⁹ In an article entitled 'The Maori Difficulty - Policy of Confiscation' 'Justitia' argued that:

In New Zealand the policy of the English Government has not been straightforward and avowedly for the extermination of the native race, but practically it has been so... The native Maori race must be exterminated outright or they must be treated justly and as British subjects before this colony can know permanent peace. England seeks to rule New Zealand as she does Ireland, not by British law and justice but by Coercion Bills, spies' craft, and brute force... If Mr Parnell and Te Whiti have really committed any crime known to the law, let them be brought before the constituted tribunals of the country and tried and punished in due form of law, else we must infer that the Government are afraid of the law and British Constitution.⁵⁰

In March the following year the editorial position had adopted the stronger tone of 'Justitia' and was bluntly and dismissively critical of the Native Minister John Bryce's⁵¹ approach to the acquisition of Maori land. The editorial remarked that Bryce had

returned to Auckland [from a working visit to another part of the country] sick - not unto death we are happy to state - or his time for penance may have been short.⁵²

It continued:

His idea of nation making is to despoil and to pauperise the weak race, an unfortunate accident has allowed him to govern. His will is the only law he recognises, and property he holds sacred must be his own. Unhappy is the man who resists his will or demurs to his order. Imprisonment without trial, a charred roof-tree, growing crops destroyed, eviction and deprivation is his lot if he has the evil misfortune to have a coloured skin... There are better things to do on earth than to

⁴⁹ Charles Parnell was an Irish member of the British House of Commons who had one month earlier been imprisoned for his part in the Irish Land League, a body established to resist the exploitation of Irish tenant farmers by their landlords.

⁵⁰ 'Justitia', *The Freeman's Journal* 11 November 1881.

⁵¹ John Bryce was Minister of Native Affairs from 1879-1884. He had no sympathy for Maori aspirations and was motivated by a desire to alienate Maori land for settlement.

⁵² *The Freeman's Journal* March 1882.

try to hoodwink and to steal from your neighbours, to seek to remove his landmark, or to kill the heir in order to obtain his inheritance.⁵³

While the later sentiments expressed by the *Freeman's Journal* may have been fair interpretations of contemporary political circumstance the absence of theological assessment and its reliance on emotive rhetoric to present its message does not advance the Church's purpose of giving expression to religious ideals.

Like the *Freeman's Journal*, the Italian priest Felice Vaggioli's *History of New Zealand and its Inhabitants* recognised and challenged racism in New Zealand at a time when such a stance was not characteristic of the Church generally. Vaggioli wrote at a time of considerable sectarian prejudice and although he claimed to write with impartiality,⁵⁴ the evidence from his text is that he was motivated by an unashamed anti-Protestant and anti-British perspective. It was not an approach conducive to the presentation of a reasoned theological position to the British and Protestant political elite. Vaggioli claimed that Protestantism could not make a moral contribution 'to civilising ignorant savages' because 'most missionaries lacked the good character and abilities requisite for their vocation... Protestantism itself had no such requirements.'⁵⁵

Protestantism with its corruption and false values put into Maori hands the very instruments of their destruction. It will dispossess and impoverish them, finally ruining them and driving them to complete annihilation.⁵⁶

While sectarian prejudice weakened the presentation of his argument Vaggioli's work remains significant because it presents a rare appreciation of the negative impact of colonial expansion on Maori and is motivated in part by religious concern. It shares

⁵³ Ibid.

⁵⁴ Felice Vaggioli, *History of New Zealand and Its Inhabitants*, trans. John Crockett. Dunedin. University of Otago Press, 2000, 10.

⁵⁵ Ibid. 31.

⁵⁶ Ibid. 50.

however with the *Freeman's Journal* a cheapening of argument through its use of simplistic rhetoric which sets it apart from the more strictly and clearly religiously inspired opposition to indigenous mistreatment of the Australian missionaries discussed in the previous chapter.

Assimilation: A confused and inconsistent response

Nineteenth century Church attitudes and responses to the condition of Australasia's indigenous peoples continued well into the twentieth century. In New Zealand these attitudes and responses were followed by an increase in Maori missionary activity which provided a new context for the Church's relationship with Maori. Yet too often prelates allowed themselves to be led by secular fashion instead of their own Church's established beliefs. The isolated application of the magisterium, demonstrated in the Church's motivation for providing Maori schooling, indicates that there was not a conscious rejection of the Church's claimed authority to present general principles relevant to the preservation of Maori dignity. Nevertheless the Church's response to the policies and politics of assimilation during the first part of the twentieth century provides an important example of the Church not appreciating the full political implications of its magisterium. In 1934, for example James Liston,⁵⁷ Bishop of Auckland, did not consider one of the more subtle attempts to undermine Maori culture that successive governments had adopted. In a report on missionary work in his diocese, Liston commented on a government agricultural policy designed to undermine collective land title:

For the past few years the government is making a big effort to settle the Maoris on their own farms, and not as hitherto, as family or tribal owners. All this will tend to

⁵⁷ James Liston was Bishop of Auckland from 1929 until 1970. He was responsible for several pastoral initiatives among Maori, including the establishment of the Mill Hill order in the Auckland Diocese.

make the Maori more and more adopt European ways of living and make the family more than the tribe the centre of their life.⁵⁸

The overall tone of Liston's report is neither for nor against the policy. It is simply descriptive and concerned with the pastoral implications of the cultural change that the policy envisaged. While there was nothing contrary to Catholic teaching in the encouraging of farm settlement and development in itself, there were at least two points arising from the specific circumstances of the policy that might have concerned a bishop. First, the objective of having the Maori 'more and more adopt European ways of living' was assimilation, a policy that the Church did not accept. Even at a time when notions of Maori inferiority influenced Catholic thinking, assimilation was still understood as wrong by the New Zealand Church.⁵⁹ Second, the efforts to settle Maori on their own farms that Liston described would not have been necessary if governments had not alienated Maori land. The policy was a response to earlier measures that were contrary to the Church's magisterium.

Yet in contrast, through their schools the Marist brothers were giving effect to the Church's argument against assimilation. The brothers' reasoning was explained in a letter to the Prime Minister, Michael Savage, requesting financial support for Hato Petera College at Northcote.

The Marist brothers during the past fifty years have taught Maori boys under their care in the primary and secondary schools but in only few cases have they been satisfied with the results achieved.... In many cases the individuality of the Maori is lost, he apes the European and readily loses that pride of race and manly bearing that characterises the Maori chief.... When he is associated with the European in the classroom it is impossible to instil into him that enthusiasm necessary for the

⁵⁸ James Liston, "Observations Re the Maori Race. Report to His Excellency the Apostolic Delegate", October 1934. ACDA. LIS 106-1., 1934.

⁵⁹ Brother Benignus, Letter to Reverend Father J. Riordan, SM, 11 November 1936. MBAA, Hato Petera 1. Brother Benignus, "Memorandum Submitted To: The Right Honourable the Prime Minister of New Zealand", MBAA, Hato Petera 1.

preservation of his language, the traditions, folk-lore and customs, so important in later life to enable him to stand firm against the European influences surrounding him.⁶⁰

The brothers' motivation was thus more positive than the primarily protective function from white aggression that was the pragmatic response to a hostile political climate of those Australian missionaries who felt compelled to segregate black from white. In New Zealand separation in schooling was intended to promote development; in Australia segregation from white society was often promoted as necessary to permit survival.

From the conclusion of the New Zealand wars until 1938 the difficulties facing missionary activity were compounded by the fact that most of the money collected for missionary support in New Zealand was being spent on overseas missions. In 1938 the bishops expressed their concern to the Holy See, and successfully petitioned for one-third of the money collected in New Zealand each year to remain in the country.⁶¹ While the extra financial support was a boost to missionary activity, no amount of money could overcome the barriers created by the patronising attitude of some missionaries towards Maori people. Although believing that, like the Pakeha, the Maori was 'a son of Adam'; a missionary priest writing in the Society of Mary's *Marist Messenger* in 1939 commented that:

It must be remembered that the Maori has been emancipated from his natural state only a little more than a hundred years; in fact, human flesh was eaten in this country less than 80 years ago.⁶²

A Catholic publication may properly describe a cultural rejection of cannibalism as 'emancipation'; but to infer that an imposed weakening of the culture as a whole resulted in emancipation was not justifiable.

⁶⁰ Benignus, "Memorandum Submitted To: The Right Honourable the Prime Minister of New Zealand".

⁶¹ New Zealand Catholic Bishops, "Meeting Minutes, 4 May 1938", ACDA. LIS 2-2/27, 1938.

⁶² The Marist Messenger, *The Marist Messenger* September 1939.

The *Marist Messenger*'s patronising tone intensified with its comment on the Catholic Maori schools.

The nuns have won the hearts and souls of the brown children... the children are taught the meaning of practical charity and how to love their brown brothers and sisters.⁶³

The inference that the values of love and charity were not taught to Maori children in their traditional environment was indicative of a prevailing obtuseness in attitudes towards Maori in the country as a whole. The attitude exemplified by the *Marist Messenger* for several decades suggested that the journal was caught in a tension between the official Catholic view of equality of all people, and the widely accepted secular view of native peoples as inferior to Europeans. This tension was not resolvable, and was a contributing factor towards the Church's neither recognising nor responding to the political disadvantage imposed on Maori people by government and society. The tension is further evident when comparing contradictory articles in the March and April 1947 editions of the *Marist Messenger*. In March the *Marist Messenger* appealed for financial support for the establishment of a Maori school. Its language was little more than that pitiful of cheap advertising.

Our civilisation has gone a long way towards blackening a native race, in many ways whiter than our own... as the Maoris have a glorious past, it is possible for them to have a glorious future. But this is possible only by true Christian education... Worthy of no honour – pitiful for ever – is the Catholic Pakeha who spurns the appeal and the just claim for a Maori boys' college.⁶⁴

But by April the paper had resumed its confused desire to compare negatively Maori to Pakeha. The contradictory attitudes of Maori cultural inferiority, but human equality were simultaneously expressed.

⁶³ Ibid., 29.

⁶⁴ "The Maoris Are Calling", *The Marist Messenger* 1 March 1947, 11.

When we speak about civilising some backward race, we should think of Christianising them rather than Europeanising them. The two words, are not synonymous. God created the Maoris as Maoris and gave them their natural characteristics.⁶⁵

In a letter to the Undersecretary for Maori Affairs in 1950 a Marist priest, John Durning, offered an understanding of Maori equality with Pakeha that was more akin to the goal of assimilation which his Church rejected, than it was to any notions of equality of cultures. Clearly, Durning saw equality as meaning sameness, not difference in a positive sense. In his letter Durning expressed interest in extending a practice used in a native school in Rotorua of creating

a cottage where the children will live for a week at a time, and live an ordered and dignified life under direction and supervision, which will extend to conduct at meals, thoroughness in carrying out all domestic duties, and in general, education in all the amenities of civilised life.⁶⁶

Durning explained his view that ‘if our Maori people are to take their place on an equality with the Pakeha... they must receive social education’.⁶⁷ Clearly, while he did not see Maori culture as wrong, he saw it as inadequate. Like Rosendo Salvado in Western Australia nearly eighty years earlier, Durning had a genuine respect for the indigenous culture, but held the patronising although not unconcerned view, that a European lifestyle would be more befitting of their humanity and dignity. Durning’s comment implied a belief that human dignity required a European lifestyle because that was ‘civilised’, and the Maori lifestyle was not. Such beliefs give an indication of why Durning and his contemporaries may not have thought it necessary to challenge the disruption of traditional land title, for example. In contrast the Church’s initiatives in Maori schooling

⁶⁵ The Marist Messenger, “There Is Neither Gentile nor Jew: Christ Is All and in All”, 1 April 1947, 6.

⁶⁶ J Durning, Letter to R. Ropiha. Undersecretary for Maori Affairs, MAW. MM1, 2 June 1950, 1.

⁶⁷ Ibid, 1.

were consistently motivated by a desire to impede the policy of assimilation. The Maori schools were created for the express purpose of preserving Maori culture and language.⁶⁸ This contrasted with the State's native schools, which at the same time were intentionally promoting the demise of the Maori language.⁶⁹ While the Church's motivation was religious, rather than political, it nevertheless stood in contradiction to secular political thought which maintained that Maori would be best served by becoming Pakeha. It was for exactly this reason, 'because it amounts to the destruction of Maori identity and values by the Pakeha majority,'⁷⁰ that assimilation became discredited.

In 1951, *Whiti Ora*, the publication of the Society of Mary's Maori mission, saw the Pakeha culture as having many features superior to that of the Maori. But instead of arguing that these features were incompatible with Maori culture, as assimilationists believed, *Whiti Ora* argued that:

The solution as we see it is for the Maori people to cling to their ancient culture but at the same time learn all that is good in the Pakeha way of life. In a Christian frame of mind, Maori and Pakeha should learn to understand and respect each other's point of view.⁷¹

In spite of these high ideals for their time, and in spite of the prevalent belief that the Church stood apart from the political community, many Church personnel still taught ideas that were in conflict with Maori assertion of their interests. Passive submission to the Pakeha authorities was emphasised in a fashion that effectively denied the continuing reality of Maori oppression, and the existence of racism in New Zealand society. For example, in 1949 *Whiti Ora* had played on the passion aroused in the wartime song of the

⁶⁸ Benignus, "Memorandum Submitted To: The Right Honourable the Prime Minister of New Zealand".

⁶⁹ Ranginui Walker, *Struggle without End: Ka Whawhai Tonu Matou*, Auckland, N.Z.: Penguin, 1990, 146-148.

⁷⁰ Richard Mulgan, *Democracy and Power in New Zealand*, 2nd ed. Auckland: Oxford University Press. 1989, 50.

⁷¹ *Whiti Ora* September 1951, 12.

Maori Battalion to argue the clearly Augustinian position of the importance of ‘honouring the King because he is the lawful ruler.’ Maori families were even encouraged to hang portraits of the King and royal family on the walls of their homes.⁷² But just as Pompallier had done before, *Whiti Ora* did not consider well established Catholic teachings on the responsibilities that accompany lawful rule, specifically the notion that human law exists for the sake of the common good.⁷³ *Whiti Ora* disregarded the fact that successive monarchs had ignored Maori attempts to have grievance addressed,⁷⁴ and that the Church did not require people to accept passively discrimination. Missionary practice, of course, did not always meet established teachings, or even indicate awareness of them. What the New Zealand Church was telling Maori did not make sense: resist the Pakeha attempts to destroy your culture, while at the same time passively accept his discrimination.

The Pretence of Racial Harmony

Although there was compelling evidence to the contrary there was a commonly held secular view, which many in the Church accepted, that New Zealand in the 1950s was a model of racial harmony. It was a pretence that suited governments as a mechanism to avoid attending to issues such as land rights and linguistic and cultural preservation. It was a secular influence that the New Zealand Church uncritically accepted and therefore while it could identify and repudiate racism when it was overtly expressed in the selection of rugby teams, it could seemingly not identify those discriminatory values when more subtly expressed. This contrasted with the contemporary Australian Church’s

⁷² *Whiti Ora* March 1949, 1.

⁷³ Aquinas, *St Thomas Aquinas, Theological Texts*, 153.

⁷⁴ For example in 1884 King Tawhiao was refused the opportunity to present a petition to Queen Victoria and in 1924 T.W. Ratana was refused the opportunity to present to King George V a petition containing 38,000 signatures which sought redress for breaches of the Treaty of Waitangi.

reluctant positioning by secular politics at the centre of the implementation of the policy to remove indigenous children from their families. Thus, for the Australian Church there was no pretence of racial harmony, but an inability to resist or challenge directly a prevailing philosophy demonstrably inconsistent with its own magisterium. Although the Australian Church never suggested that there was racial harmony in that country, Australian missionaries, like their New Zealand counterparts, were impeded in their recognition of a relationship between the magisterium and specific state policy choices by confused and inconsistent interpretations of both political ideology and established religious thought. In Australia there was however greater recognition of the religious impropriety of assimilation than in New Zealand. But that recognition was not wide enough nor expressed with sufficient force to prevent the prevalence of the same insufficiently critical assessment of government motivation that existed in New Zealand. There was also a limited appreciation of the extent to which state policy might properly have been challenged with reference to the religious ideology and ‘constant truth’ held by the Catholic Church.

In March 1951 *Whiti Ora* departed from its own established tone, to express an attitude more respectful of Maori and more consistent with the magisterium. After changes had been made to liquor licensing legislation to remove restrictions on Maori access to alcohol, *Whiti Ora* noted an increase in Maori drunkenness. However it expressed its concern in a fashion that was significant beyond the issue of alcohol consumption:

Maori leaders should take heed lest tragedy befall the race. We are not saying that the Maori are worse than the Europeans. We are not interested in such comparisons. The Pakeha is not our model. We’re supposed to be trying to imitate Christ.⁷⁵

⁷⁵ *Whiti Ora* March 1951, 10.

If the ‘Pakeha is not our model’ then the implication is that Maori are not culturally inferior or ‘backward’. This in turn is an affirmation of the Church’s opposition to assimilation, which it best demonstrated through its approach to Maori schooling. Yet in remaining silent on the assimilationist objective behind disrupting communal land title, the Church was not consistent in its expression of the teaching that assimilation is contrary to Catholic belief. Nor could the Church credibly encourage the imitating of Jesus Christ while accepting the pretence of racial harmony evident in *Whiti Ora* and the *Marist Messenger*. According to established Catholic thought, imitating Jesus Christ required the preservation of the Maori culture. If this preservation was threatened, then the Maori was logically justified to resist that. The tone of both *Whiti Ora* and the *Marist Messenger* was one of passive acceptance of cultural threats, rather than one that encouraged resistance. Thus *Whiti Ora*’s comments on alcohol consumption implicitly challenge, both theologically and politically, the advice given to Maori on other occasions. The challenge however was not taken up by the Society of Mary, and the blind acceptance of suggestions that racial harmony existed in New Zealand continued, an acceptance that in itself impeded a full application of the magisterium to the Maori political predicament.

In 1953 an unnamed Mill Hill missionary, writing in the *Marist Messenger*, naively expressed his belief in the existence of racial harmony.

There is no colour bar, and in work and sport the Maoris appear to be European in all but colour.⁷⁶

The writer had clearly not followed debates in the *Marist Messenger* about the high profile issue of the national rugby team competing with South Africa on the condition

⁷⁶ “Life among the Maoris”, *The Marist Messenger* 1 January 1953, 21.

that for political reasons New Zealand teams be selected partly on the grounds of race, rather than merit alone. There was a very real colour bar in New Zealand sport, and it was one of the few mid twentieth century examples of a colour bar on which the New Zealand Church commented. The fact that it joined the public protests about Maori exclusion from national rugby teams competing against South Africa did not reflect a new found opposition to racism; it reflected an uncommon recognition of its existence.

In 1948 the Central Council of Associated Catholic Maori Clubs expressed concern about a proposed tour to South Africa by a rugby team calling itself All Blacks, when in fact it would not be a national representative team.

It was a slight to that section of New Zealanders who were excluded. It was an issue of human rights because All Blacks are picked representatives of New Zealand. To exclude the Maoris is to deny that they have all rights in New Zealand... the question is ultimately a moral one and concerns the maintenance of our own Christian standards of racial relations here in New Zealand.⁷⁷

The fact that the debate was even raised suggests that the Church may have been a little hopeful in suggesting that there were Christian standards of racial relations to be maintained: a more accurate understanding might have led to a Church suggestion that Christian standards of racial relations might in fact be introduced to New Zealand.

In 1956 *Whiti Ora* spoke out against the proposed All Black tour to South Africa on the grounds that Maori players would not be considered for selection, and in 1966 the Church entered the same debate again with *Whiti Ora* expressing the opinion that:

If a section of the people of New Zealand is not welcome in South Africa we should all stay home. If the South Africans are inviting New Zealand, they should accept the team we pick, whatever the colour of their skins. If we cannot play each other on that basis we should be ready to forego the pleasure of South African tours.⁷⁸

⁷⁷ Central Council of the Associated Catholic Clubs, Meeting Minutes. MAW 195/5/8, 1948.

⁷⁸ *Whiti Ora* February 1966, 15.

In 1969 and 1970 the issue of All Black tours to South Africa concerned the *Marist Messenger* once again.⁷⁹ However, because the South African position had changed to allow the inclusion of Maori players in the national team the *Marist Messenger* argued that such tours could contribute to the dismantling of apartheid in South Africa. Apartheid was strongly condemned.

We abominate it as inhuman, evil, anti Christian, just as the South African Catholic Bishops have expressly done.⁸⁰

The Church's consistent challenge to the racism that it saw in New Zealand rugby demonstrated that it did not have any difficulty in principle with the idea of publicly expressing its teachings against racism. The fact that it could so forcefully and unequivocally oppose racism in sport raises the question of why it could not do this in other areas of society, especially those which had a more immediate impact on the welfare and dignity of Maori people.

In spite of the values expressed within the context of sporting contact with South Africa, the assumptions of Maori inferiority which informed much of contemporary policy still found acceptance by many within the Church. This was evident in the patronising tone of clergy, who while not actively hostile to Maori, did not appreciate the extent of colonisation's negative impact. The assumption was evident as well in the contradictory themes of passive acceptance of the oppressive policy and practice of successive governments, and cultural preservation – a notion repeated in a letter to Maori people from the Society of Mary's Father Wanders:

For you, no rebellion is needed; no recourse to patu or taiaha; only a new appreciation of your value as a Maori. Do not believe those false prophets, who

⁷⁹ The Marist Messenger, "The All Black Tour", *Marist Messenger* May 1969, 2 and "A Thin Crack in the Apartheid Wall", *The Marist Messenger* 1 August 1970.

⁸⁰ The Marist Messenger, "The All Black Tour". 1969, 2.

want to tell us that integration is unavoidable, that the Maori race must be absorbed by the Pakeha... You find yourself alongside a race, who is fully sympathetic with, nay, even proud of the Maori.⁸¹

In its desire to protect Maori culture from extinction, the New Zealand Church was entirely in accord with the magisterium. But the political implications for Maori of its further principles were not taken up. In this sense the New Zealand Catholic Church was inconsistent with the Holy See in its thinking. Accepting the pretence of racial harmony in New Zealand was a barrier to the Church's ability to support Maori aspirations beyond the elementary desire of survival as a distinct ethnic group. Even religious who clearly understood and accepted the magisterium were blinded by their acceptance of this interpretation, as was evident in a homily delivered in Wellington in 1962 by the Society of Mary's James Durning.

Christ is still hungry; he is still thirsty. He is still a stranger; he is still in prison. If we love him, we will come to help him, no matter in what part of this world he may be. There are, of course some who refuse to see Christ in members of races other than their own... There are racial problems in the world - real problems - and it does no service to truth or charity to minimise them. But any solution is wrong which brands a man as inferior just because he belongs to a certain race, or denies him his rights as a son of God with an immortal soul redeemed by Christ and destined for glory. These problems do not, thank God, exist in this country.⁸²

Although a man of many years' missionary experience among Maori communities, Durning could not see the racism he identified in other parts of the world in his own country and in his daily working environment. Yet by the 1980s Durning would have become a vociferous proponent of biculturalism.

Summary

With the notable exception of its approach to Maori schooling and its repudiation of the exclusion of Maori players from All Black teams competing with South Africa, the

⁸¹ T. Wanders, in *Whiti Ora* Easter 1958, 15.

⁸² James Durning, "Homily", St Mary of the Angels Church, Wellington. MAW, 1963.

credibility of the Christian message that the Church claimed was its duty to present to Maori people was compromised by the influence of contrary political pressures. The message was compromised because of inattentiveness to the possibility of religious objectives being impeded in their fulfilment by political priorities and choices, and sometimes by an inability among prelates to identify widespread secular prejudice and discrimination against Maori. It was common practice at least until the late 1960s for the Church to allow external political pressures to locate it 'in this world' at least to an extent that compromised its ability to proclaim consistently and prominently the 'truth' it maintains was revealed to it.

CHAPTER FIVE

Political and Religious Change and the Emergence of Australian Reconciliation

Introduction

The Second Vatican Council was critically important in encouraging the Church to become more vocal and forthright in the public advocacy of religious principle. The Council's theological and missiological emphases challenged the Australian Church's historical responses to Aboriginal concerns. Yet, in both Australia and New Zealand it was not until the secular political process had placed indigenous concerns on the policy agenda that the Church began its consistent and unashamed advocacy of the religious principle that it believed should inform state interactions and relationships with indigenous peoples. This demonstrates that the extent to which the Church can interact with the public realm to give secular context to its magisterium depends primarily on its own willingness to do so, as was explained in the *Instrumentum Laboris* for the Synod of Bishops for Oceania, published in 1988.

The separation of faith from life has been resolved for those who really took the [Second Vatican] Council's message to heart. The Spirit is moving the Church in Oceania to discover new ways of telling the truth of Jesus Christ in a secular society.¹

A significant secondary factor is that an institution that is not 'of this world' depends on the political space that the body politic will itself make available for the presentation of a diversity of ideas, including religious ideas. Where the parameters of public debate have broadened and a plurality of views become acceptable then there is greater opportunity

¹ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 23.

for the formation of intellectual alliances of common aspiration to allow the magisterium to be given secular context.

The Broadening of the Parameters of Secular Debate

Significant political change that broadened the parameters of debate took place throughout the 1960s and 1970s, which laid the foundations of a political environment in which there was considerable religious activism in support of indigenous aspirations during the 1980s and 1990s in particular.

A major turning point in the relationship between black and white Australia occurred in May 1967 when the Holt Government (1966-1967) held a referendum proposing two amendments to the Commonwealth Constitution. The first amendment removed section 127 of the Constitution, which precluded Aboriginals being counted in population census. The second made Aboriginal Affairs a concurrent Commonwealth/State power and permitted the Commonwealth Parliament to make laws relating to Aboriginals. Although the 1967 referendum was not the event which gave Aboriginal and Torres Strait Islanders Australian citizenship, it was important because it took on that 'mantle'.² Indigenous Australians had in fact never formally been excluded from citizenship; instead they were 'citizens without rights'.

[I]n order to be citizens without rights... citizenship had to be an empty category, and it was. The Australian founders eschewed putting any core positive notion of citizenship in the Constitution precisely to allow the States to perpetuate their discriminatory regimes and to enable the new Commonwealth Parliament to implement a national regime of discrimination.³

² Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 184.

³ *Ibid.*, 3.

With reference to Kim Beazley Senior's⁴ arguments in favour of constitutional amendment, Chesterman and Galligan explained how the referendum became popularly seen as a 'citizenship maker'. Beazley, who had first raised the issue of the deletion of s.127 and s.51(xxvi) of the Constitution in 1962⁵ was

one of the first politicians to voice support for the changes that ultimately came about. As well as supporting the deletion of section 127, Beazley argued that in order for Aborigines to be 'fully Australian citizens', their constitutional position had to show that they were subject to state and federal law in the same way as 'other citizens'.⁶

In support of the proposal, Edward Doody, Bishop of Armidale, issued a joint statement with his Anglican counterpart stating that such change would remove

any suggestion of race prejudice and will demonstrate our real concern for the dark people who are fellow citizens.⁷

While the bishops may have been overly optimistic in their expectation, the referendum did attract more than 90% support which indicated a growing awareness of Aboriginal rights. It also gave the Commonwealth the opportunity to work with States towards addressing issues of poverty, land rights and discrimination. Again with reference to Beazley, Chesterman and Galligan explained the further significance of the concurrent power, as well as its limitations. Under the discriminatory clause of section 51(xxvi), which the referendum removed

the Commonwealth could confer full citizenship rights on Aborigines in the Northern Territory, but that these rights could be lost when the person entered

⁴ Kim Beazley Senior was Australian Labor Party federal Member of Parliament for Fremantle from 1945 to 1977.

⁵ John Gardiner-Garden, *Background Paper 11 1996-97. The Origin of Commonwealth Involvement in Indigenous Affairs and the 1967 Referendum* (Parliament of Australia: Department of the Parliamentary Library, 1996-1997: [cited 27 April 2003]); available from <http://www.aph.gov.au/library/pubs/bp/1996-97/97bp11.htm>.

⁶ Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 184.

⁷ Quoted in Bennett, *Aborigines and Political Power*, 11.

Western Australia or Queensland, and he argued that the 'Commonwealth is powerless to insist that citizenship rights have Australia-wide force'.⁸

Chesterman and Galligan also explained that

Beazley acknowledged that the deletion of the reference to Aborigines in section 51 (26) could not affect the state franchise, but he argued that other features of citizenship, such as the right of free movement, might be positively affected as a result. The removal of the phrase 'other than the aboriginal race in any State' would be the 'removal of a barrier to effective Commonwealth power to confer a meaningful nationality and citizenship on the people of the aboriginal race'.⁹

A more recent commentator has implied that Beazley's optimism has not proven justified because of the 'realities of Australian federalism'.¹⁰ Bennett argued that because Aboriginal affairs became a matter of concurrent power, they became 'embroiled in intergovernmental wrangling'.¹¹

When we look at the history of Commonwealth-State activity in Aboriginal affairs since 1967, we might well wonder whether a massive, if unintentional, confidence trick was played on Aborigines in the referendum. The overwhelming message of the 1967 campaign was of a new dawn for Aborigines because of the coming involvement of the Commonwealth in their affairs, but there is no evidence of anyone attempting to alert Aborigines to the pitfalls placed in the path of the reformers by the presence of the federal system... The pious hopes of 1967 were likely to be pushed aside by the realities of Australian federalism.¹²

While Federalism has created an extra layer of bureaucracy through which Aboriginal people must negotiate, it is certainly not clear that in itself it has been primarily responsible for the 'pushing aside' of the 'pious hopes' of the 1967 referendum. It is more reasonable to attribute primary responsibility to the political will of the Australian people – a political will that has nevertheless shifted incrementally towards an accommodation of the goals that the Church maintains are legitimate for indigenous

⁸ Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 184.

⁹ *Ibid.*, 184.

¹⁰ Bennett, *Aborigines and Political Power*, 65.

¹¹ *Ibid.*, 64.

¹² *Ibid.*, 81-82 and 64-65.

Australians. This incremental shift in values has in turn widened the political space within which religious principle can be given public expression, although still within the context of a plurality of views, some antithetical to those promoted by the Church. Opponents of federalism have argued that it establishes systemic barriers to the solving of problems of a national nature because

demands for social justice... and for flexibility in governmental response to change all require a concentration of power in a central co-ordinating authority.... States... prevent the effective use of central power by providing conservative and business interests with weapons to obstruct and delay socially progressive legislation.¹³

This position unjustifiably assumes a political will for what it calls socially progressive legislation. Such legislation has not been a common occurrence. Certainly, John Howard's Ten Point Plan for Native Title, to be discussed later in this chapter, did not constitute progress from an Aboriginal point of view.

Federalism can be a barrier to change along conservative lines just as much as along progressive ones. Federalism further enhances democracy by placing decision making closer to the point of implementation and protecting against smaller states being subsumed beneath larger population centres' perceptions of the national interest. There is certainly a risk of Aboriginal policy providing an arena for power plays and conflict between individual states and the Commonwealth because

... conflict over power is endemic to such an arrangement, but for the system to survive, compromise is a necessary, possibly even essential part of the system.¹⁴

Yet federalism can also protect Aboriginal people against being swamped beneath just

¹³ Jean Holmes and Campbell Sharman, *The Australian Federal System*. Sydney: George, Allen and Unwin, 1977, 20.

¹⁴ Bennett, *Aborigines and Political Power*, 80.

one prevailing political philosophy,¹⁵ and provides institutional checks and balances against the abuse of power. In a market of competing political philosophy there is greater opportunity for the Church to form intellectual alliances of common aspiration with political actors in the secular realm. This in turn enhances the opportunities for a Church that is not 'of this world' to position its religious ideals in political context in its own terms, rather than to have itself positioned by others – manipulated by secular pressures towards an impotent politics of neutrality.

Although use of the concurrent power has not been extensive,¹⁶ it has been put to positive effect from an Aboriginal point of view. Bennett's statement that the federal system was an obstacle to Commonwealth intervention is not convincing. Without the federal system there would not be a Commonwealth government, which has over time been able to advance Aboriginal concerns in spite of the frequent unwillingness of State governments to co-operate. The useful impact of the concurrent power, in spite of federalism's constraints, was described by Fletcher with reference to Aboriginal access to 'the bureaucratic process' in Western Australia. She argued that:

A prime determinant of Aboriginal success in influencing institutions was the effectiveness of bureaucratic structures like the Commonwealth Department of Aboriginal Affairs. As State and Commonwealth government involvement in Aboriginal affairs increased, policy making became more diffused. This strengthened the potential for Aborigines to shape policy content and affect government policy outcomes.¹⁷

The Whitlam (1972-1975) and Fraser (1975-1983) Governments used the concurrent power to take the first steps towards what it is now called self-determination. Although

¹⁵ In this thesis the term political philosophy refers not to the academic discipline but to a given set of ideas expressed in political discourse.

¹⁶ Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 187.

¹⁷ Christine Fletcher, *Aboriginal Politics: Intergovernmental Relations*. Melbourne: Melbourne University Press, 1992, 24.

their initiatives were not entirely successful, they represented an important step forward for Aboriginal and Torres Strait Islander peoples, as even Bennett acknowledged.

There is no doubt that both the Whitlam and Fraser governments stepped up, and/or maintained, a vastly greater level of commitment than their predecessors had done, with a great deal of Aboriginal activity incorporated into the many local bodies which were established: elected councils, community housing associations, legal services and so on. There were problems associated with the large number of such bodies. The available talent was spread rather thinly, and the new bodies were not free of internal politics, which sometimes distorted their efforts. Yet the very fact of their existence, and the general support given them by white politicians, marked a revolution in black white relations.¹⁸

More recently, the 1967 constitutional referendum has made possible Commonwealth initiatives to recognise native title.¹⁹ While there are differences in opinion over the extent of the referendum's significance it did mark a significant turning point in the relationship between black and white Australians. The referendum, like the *Treaty of Waitangi Act 1975* in New Zealand, also helped to create a political climate in which the Church could more easily contribute to indigenous policy debate. The political systems 'of this world' had created space for an institution that sees itself as simply 'in this world' to present its values to the body politic. At the same time, the Church itself had clarified its understanding of its proper relationship with the political order to the extent that the presentation of such values was becoming increasingly accepted as a necessary function of religious mission.

¹⁸ Bennett, *Aborigines and Political Power*, 16.

¹⁹ Native title is the right of access, use and occupation of land traditionally used by aborigines. This right is based on traditional laws and customs and can exist alongside private title to any such land acquired and occupied by non-indigenous people under previous law. Pastoral leases cover 40% of the area of the Australian continent. Aboriginal and Torres Strait Islander Council, *The Wik Judgement Means Farmers Can't Farm* ([cited 25 June 2003]); available from http://www.atsic.gov.au/News_Room/As_a_Matter_of_Fact/myth5_7.asp.

Land Rights and Self-Determination

The simultaneous increase in both political and religious interest in Aboriginal land rights demonstrated that because religious goals require political realisation the Church does well to be alert for political issues to give secular context to the advancing of its magisterium. In 1963 land rights became an important political issue when the Commonwealth made a large part of an Arnhem Land reserve in the Northern Territory available to private interests for bauxite mining. The local Yirrkala people believed that they had not been adequately consulted over the decision and petitioned Parliament in protest.²⁰ Engel argued that a ‘substantial public outcry’ then emerged which

highlighted the fact that the future of Aborigines, even in a remote area, could be determined arbitrarily by white men living two thousand miles away, without adequate prior consultation with the people concerned. It marked the beginning of the end of a system in which government and mission could together make final decisions about the Aborigines and their future. The right to be consulted and the right to land began to become major public issues.²¹

The recognition of indigenous land rights concerned the Church because it recognised a right to acquire and hold land on the grounds of first occupancy. That right arises because ‘first occupancy transgresses no existing law’. The property’s acquisition ‘does not deprive or injure another’.²² A further religious justification for indigenous land rights is the right to inherit property,²³ argued by Leo XIII because it is the ‘means by which the head can provide for the needs of the family’.²⁴ In removing property rights from

²⁰ Frank G Engel, “Australia: Its Aborigines and Its Mission Boards”, *International Review of Mission*, July 1970, 299-300.

²¹ *Ibid.*, 300.

²² John Egan, “Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility”, in *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, ed. Frank Brennan, John Egan, and John Honner. Blackburn, Vic.: Dove Communications, 1985, 57.

²³ Leo XIII, *Rerum Novarum*, 13.

²⁴ Egan, “Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility”, 58.

indigenous peoples the State has impeded the fulfilment of family responsibilities and compromised subsidiarity, which is the guarantee of self-determination.

Self-determination is a religious concept, as well as a political and jurisprudential response to the contestation of power between the state and indigenous peoples in the postcolonial pluralist democracy.

From the side of the ruling peoples, this Goliath-versus-David relation is a political system that underlies and provides the foundation for the constitutional democracies of Canada, the US, Australia and New Zealand. The aim of the system is to ensure that the territory on which the settler societies is built is effectively and legitimately under their exclusive jurisdiction and open to settlement and capitalist development. The means to this end are twofold, the ongoing usurpation, dispossession, incorporation and infringement of the rights of indigenous peoples coupled with various long-term strategies of extinguishment and accommodation that would eventually capture their rights, dissolve the contradiction and legitimise the settlement.

From the side of indigenous peoples, it is a political system that overlies and is illegitimately based on making use of their pre-existing governments and territories. It is a system established and continuously modified in response to two distinct types of... resistance and freedom, against the structure of domination as a whole in the name of the freedom of self-determination, and within it, by compliance and internal contestation of the strategies and techniques in the name of the freedom of insubordination and dissent.²⁵

One possible mediating framework for contemporary contestations of power between the descendants of colonising and colonised peoples was provided by Australia's ratification of the United Nations' *Draft Declaration on the Rights of Indigenous Peoples*. The Draft Declaration's working definition of the right to self-determination was that:

Indigenous people have the right to self-determination. By virtue of this right, they freely determine their relationship with the states in which they live, in a spirit of co-existence with other citizens, and freely pursue their economic, social, cultural and spiritual development in conditions of freedom and dignity.²⁶

²⁵ James Tully, "The Struggles of Indigenous Peoples for and of Freedom", in *Political Theory and the Rights of Indigenous Peoples*, ed. Duncan Ivison, Paul Patton, and Will Sanders. Cambridge ; Melbourne: Cambridge University Press. 2000, 41-42.

²⁶ United Nations, *Draft United Nations Declaration on the Rights of Indigenous Peoples* (United Nations, 1993: [cited 28 January 2001]); available from <http://.cwis.org/drft9329.html>.

The Church teaches the right to self-determination because it

follows from the belief that each person is unique, and created to the image and likeness of God. Each then reflects God's beauty, intelligence, power, freedom and love. We are all called to be free, autonomous, self determining masters of our own destiny responsible for our own decisions.²⁷

Self-determination belongs to both individuals and to the cultural groups to which they belong. The first implication of that right therefore is the right of all cultural groups to exist. The right to exist as a distinct culture is maintained because it is through culture that one's identity is formed and through which human dignity is realised.²⁸ Culture is expressed through language, thus human dignity is in part realised through language.²⁹ In 1987 New Zealand recognised the importance of language in a fashion that Australia has not, by passing legislation making Maori an official language of New Zealand, allowing the language to be used as of right in any public proceeding, and by establishing a Commission required to promote Maori 'as a living language and as an ordinary means of communication'.³⁰

Brennan has argued that, for Australia's indigenous peoples, self-determination establishes the right to manage their communities on their own land 'as autonomously as possible'.³¹ He suggested that this right is qualified only by the requirement that indigenous peoples manage their affairs in a fashion that does not disturb the rights of others, or obstruct the common good. The importance of self-determination is that

²⁷ Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 13.

²⁸ John Egan, "The Moral Basis of Land Rights", in *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, ed. Frank Brennan, et al. Blackburn, Victoria: Collins Dove, 1986, 63.

²⁹ John Paul II, "Address to Aboriginal and Torres Strait Islanders", in *Always the Same Spirit*, ed. Sandie Cornish. Homebush, NSW: St. Paul's, 1996, 65.

³⁰ *Maori Language Act 1987* (GP Print: 1987: Sections 3, 4 and 7b [cited 3 May 2003]); available from <http://rangi.knowledge-basket.co.nz/gpacts/public/text/1987/an/176.html>.

³¹ Frank Brennan, "Social and Political Influences on Aboriginal Spirituality", *The Way Supplement* 78 Autumn 1993, 95.

the evils of assimilation and discrimination will be overcome only by indigenous people determining their future, even if it be inevitably as a part of a nation state in which they are a minority.³²

Under self-determination the right to own property is qualified by the requirement that it be used to fulfil social obligations. It is further qualified by the view that the resources of the earth exist for the benefit of all: 'the right of every man to use material goods for his sustenance is prior to the right to property'.³³

That self-determination can take place within the nation state was assumed by John Paul II when he addressed the native populations of Canada's Northwest Territories in 1986. John Paul outlined his understanding of the meaning and practical implications of self-determination, which must include participation in the decision making process. Thus, when decisions are being considered by government or other authorities about the way people live, the people affected by those decisions ought to be consulted and participate in the decision-making process.³⁴

Nevertheless opportunities for self-determination for minority indigenous groups within the democratic pluralist nation state are limited by the right of the state to govern on behalf of all citizens, by the requirements of the common good, and by democracy's tendency to see the community as an entity comprised of individuals, not groups.³⁵ This is an example of the 'tyranny of the majority' discussed by the British political theorist John Stuart Mill in 1859:

there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality

³² Ibid., 95.

³³ Egan, "The Moral Basis of Land Rights", 60.

³⁴ John Paul II, *L'Osservatore Romano* 8 October 1984, 16.

³⁵ Mulgan, *Democracy and Power in New Zealand*, 50.

not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own.³⁶

Minority indigenous groups do not fit easily into an assumed homogenous entity and the extent to which they may be self-determining is thus usually an outcome of the power relationship they have with the state.

In 1967 the Australian Council of Churches adopted the view that first occupancy was a legitimate basis of a right to land ownership. This was an argument that the Commonwealth did not accept. Nor did it accept that for black Australians inheritance constitutes a right to land. It was the view of the Gorton Government (1968-1971) that

it is wholly wrong to encourage aborigines to think that because their ancestors have had a long association with a particular piece of land, aborigines of the present day have the right to demand ownership of it.³⁷

Clearly, the Commonwealth did not accept that occupation, or the right to inherit, were sufficient grounds on which to allow black land ownership. By extension of its argument the Commonwealth was implying that the particular land rights of black Australians were not only politically undesirable, but also illegitimate. Yet with further political developments this view was to change.

In 1966 the Gurindji stockmen employed on a West Australian station entered the land rights debate. They went on strike over remuneration and general employment conditions. However, it soon transpired that the real issue was the return of traditional Gurindji land. The Governor General was unsuccessfully petitioned to return an area of land to allow the establishment of a cattle station, and by 1972 the claim was still unresolved. In an effort to draw attention to the claim, an Aboriginal Tent Embassy,

³⁶ John Stuart Mill, *On Liberty* London: Harmondsworth: Penguin Classics, 1985, 63.

³⁷ P.J Nixon, *Land and the Aborigines of the Northern Territory*. Canberra: Department of the Interior, 1971, 1.

which still exists as a symbol of protest in 2003, was established outside Parliament House in Canberra on Australia Day 1972. The embassy gave the Australian Labor Party leader, Gough Whitlam, the opportunity to place land rights and self-determination firmly on the political agenda, which he took by visiting the embassy in February 1972.³⁸

After his appointment as Prime Minister in December 1972, Whitlam reaffirmed his position when he spoke of Aboriginals' 'lost power of self-determination in economic, social and political affairs'.³⁹ His visit to the embassy was symbolic, and marked 'a new stage in the relationship between black and white Australians'.⁴⁰ The symbolic significance of the visit is further established when Whitlam's reaction to the embassy is contrasted with that of the previous McMahon Government (1971-1972), which had refused to negotiate with the embassy and instructed the police to dismantle it and remove its occupants. McMahon's markedly different response highlighted the extent to which there was 'a continuing refusal by some governments to grant Aboriginal people the opportunity of being heard'.⁴¹ Yet by now there was a plurality of views and the parameters of secular debate were broadening sufficiently so that the religious principles held by the Church were located within the boundaries of mainstream secular thought rather than outside them.

In February 1973 the Whitlam Government appointed Justice Edward Woodward to conduct an inquiry into how land rights, especially in the Northern Territory, might be addressed. Woodward began with the assumption that

³⁸ Jan Kerkhofs, "Australia: Some Issues Facing the Catholic Church", *Pro Mundi Vita Dossiers, Asia Australasia Dossier No 15:1*. 1980, 23.

³⁹ E.G Whitlam, "Aborigines and Society", Canberra: Media Statement in *Australian Government Digest*, 1 (2). 1973, 697.

⁴⁰ Margaret Ann Franklin, *Black and White Australians*. South Yarra, Vic.: Heinemann Educational Australia, 1976: 209.

⁴¹ Bennett, *Aborigines and Political Power*, 40.

white settlers and their descendants have gradually taken over the occupation of most of the fertile or otherwise useful parts of the country. In doing so, they have shown scant regard for any rights in the land, legal or moral, of the Aboriginal people.⁴²

Woodward's report resulted in the establishment of an Aboriginal Land Fund Commission, but the government was not able to implement its further recommendations before its dismissal in 1975. Woodward's recommendations were however implemented by the Fraser Government, although in 'slightly weaker form',⁴³ through the *Aboriginal Land Rights (Northern Territory) Act 1976*. The Act allowed certain reserve and unalienated Crown land to be returned to Aboriginals, and 'was far ahead of developments in most of the States'.⁴⁴ A further outcome of the Woodward Commission was to give Aboriginals in the Northern Territory a right of veto over development on their lands. The veto could only be overridden

on the authorisation of the Governor General who puts a proclamation to that effect before both Houses of Parliament, permitting this allowance. So it is a pretty tight sort of veto.⁴⁵

During this period, government institutions at both state and Commonwealth levels were altered to allow for Aboriginal participation. In Western Australia, for example, the full rights of citizenship were granted to Aboriginals in 1971, nine years after the Commonwealth began to confer some of those rights in 1962. In 1971 laws against Aboriginals entering certain hotels were repealed in Western Australia.⁴⁶

It was in this environment of relatively rapid change that in 1975 Neville Bonner, a Catholic and the first Aboriginal elected to the Commonwealth Parliament, initiated the

⁴² Woodward in Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 200.

⁴³ Ibid., 200.

⁴⁴ Ibid., 201.

⁴⁵ Frank Brennan, "Mabo and the Future of Aboriginal Reconciliation", *St. Mark's Review* Winter 1994, 10.

⁴⁶ Fletcher, *Aboriginal Politics: Intergovernmental Relations*, 1.

first of several parliamentary motions which to varying degrees acknowledged the particular place of Aboriginals in Australian society. The Senate unanimously passed the motion:

That the Senate accepts the fact that the indigenous people of Australia, now known as aborigines and Torres Strait Islanders, were in possession of this entire nation prior to the 1788 First Fleet landing at Botany Bay, (and) urges the Australian government to admit prior ownership by the said indigenous people and introduce legislation to compensate the people now known as aborigines and Torres Strait Islanders for dispossession of their land.⁴⁷

While Bonner's motion was passed unanimously and indicated support for the Commonwealth's growing interest in land rights, debates about the nature and extent of compensation are continuing twenty five years later. The motion was nevertheless an important contribution to an ongoing process of achieving compensation for injustice. The symbolic nature of such a motion being unanimously passed, especially on the initiative of the Parliament's first indigenous member, was also important.

An Australian Treaty?

In 1979 the National Aboriginal Conference proposed to the Commonwealth government that it negotiate a Treaty, Convention, or Covenant with indigenous Australians. Although this proposal was never realised it was nevertheless important as a possible model for reconciliation and contributed to the broad acceptance of general principles of reconciliation in the public mind. In July 1980 the *Catholic Leader*⁴⁸ published a lengthy article by H. C. Coombs,⁴⁹ which endorsed the idea of a Treaty and argued that Aboriginal and Torres Strait Islander peoples needed above all else 'a status, which can

⁴⁷ Neville Bonner, *Commonwealth Parliamentary Debates* [S] 1975: 370.

⁴⁸ The *Catholic Leader* is the newspaper of the Archdiocese of Brisbane.

⁴⁹ H.C. Coombs was a prominent public servant and among others held the position of Chairman of the Australian Council of Aboriginal Affairs.

confer the dignity of a people in command of their own destiny'.⁵⁰ In New Zealand, Treaty of Waitangi settlements have contributed to iwi command of their own destiny. In Catholic thought command of one's individual and collective destiny is implied by the dignity of the human person. Therefore Coombs argued that the status a Treaty would accord is owed

not by the charity of their conquerers, but as a matter of right as an expression of justice.⁵¹

The National Aboriginal Conference was clearly seeking justice not charity and the *Catholic Leader's* endorsement of that objective indicated a shift from paternalistic charitable missionary practice to the recognition of legitimate indigenous 'rights'.

The Conference proposed that the Treaty would recognise prior Aboriginal ownership of Australia, provide compensation for the losses suffered by Aboriginal people (primarily land and culture), and guarantee indigenous representation in Commonwealth and state parliaments as well as in local government. The Fraser Government agreed to enter negotiations with the National Aboriginal Conference and in 1979 it created an Aboriginal Treaty Committee. In 1988 Bob Hawke said that 'there shall be a Treaty negotiated between the Aboriginal people and the Government of Australia'.⁵² A formal treaty though was problematic because of difficulties in fairly representing the views of disparate indigenous communities, and because of political arguments against the possibility that 'a treaty may lead to new rights for aborigines'.⁵³ There was also a view expressed by John Howard that:

⁵⁰ H.C. Coombs, "Government Should Negotiate a Treaty as Guarantee of the Rights and Security of Aborigine", *The Catholic Leader*, July 13 1980, 3.

⁵¹ *Ibid.*, 3.

⁵² Bob Hawke in *Ah Mat*: 1995, 1.

⁵³ Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 218.

It is an absurd proposition that a nation should make a treaty with some of its own citizens. It also denies the fact that Aboriginal people have full citizenship rights now.⁵⁴

Further, as Coombs pointed out, the Conference was a creation of government 'deriving no authority from traditional sources'.⁵⁵ Brennan argued that it was 200 years too late for a treaty because

for a realistic treaty to be negotiated, there would be a need to identify two separate parties who might contract about fundamental issues of sovereignty and self-determination.⁵⁶

From a Catholic perspective therefore, a Treaty based on negotiation with such a body as an assumed representative of all indigenous Australians could not be based on a notion of subsidiarity, which is in fact the feature making the Treaty of Waitangi a document of substance for iwi and hapu. It was by iwi and hapu, not by a non-indigenous construction that the Treaty of Waitangi was negotiated. Without subsidiarity as an assumed feature of Crown/indigenous relationships there is an increased likelihood of dignity and authority being undermined by higher units in the political structure. Nevertheless the proposals of the National Aboriginal Conference accepted by the Fraser government, thwarted by political difficulties encountered by the Hawke and Keating Governments, and rejected by the Howard Government, could have provided a general framework within which reconciliation could be advanced. A Treaty would be a legitimate aspiration from a Catholic perspective because first and foremost, it would contribute to a categorical acceptance by the Crown of past wrong doing. Secondly, it would constitute a starting

⁵⁴ John Howard in Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*, 218.

⁵⁵ Coombs, "Government Should Negotiate a Treaty as Guarantee of the Rights and Security of Aborigine", 4.

⁵⁶ Frank Brennan, "Those Rights after Mabo: Can We Walk up Ladder Together", *Catholic Leader* 7 April 1993, 13.

point for determining procedures for both addressing the impact of wrong doing, and for establishing relationships and principles intended to reduce the likelihood of further wrong doing. It would in short be an instrument of reconciliation. Patrick Dodson⁵⁷ told the Aboriginal and Islander Catholic Council that he saw Hawke's promotion of a Treaty as an opportunity for both indigenous and non-indigenous Australians to consider how injustices could be 'reconciled on a proper basis of justice and equity'. He further suggested however that indigenous Australians needed to consider carefully whether such a proposition would provide a framework for reconciliation and thus be

good and constructive, or whether it will be another way of tying us up with legal interpretations of what our rights are.⁵⁸

That, he suggested, 'is something we as a people must decide and be accountable for'.⁵⁹

However, like the Treaty of Waitangi, as a product of human law it would not be a guarantee of justice, nor would it be a guarantee of the fulfilment of the Church's wider aspirations arising from the dignity of the indigenous Australian. But it would certainly have the potential to promote those aspirations if accompanied by more comprehensive political will. It is that encouraging of a more comprehensive political will to improve indigenous material conditions, and to enhance the indigenous political status that has informed Church contributions to indigenous policy debate during the 1980s and 1990s.

Hawke and Land Rights

In 1983 the Fraser Government was defeated by the Australian Labor Party, led by Bob Hawke. An objective of the Hawke Government (1983 – 1991) was to achieve national

⁵⁷ Patrick Dodson is a former priest of the Missionaries of the Sacred Heart. He is the only indigenous Australian to have been a Catholic priest and has held numerous Aboriginal leadership positions including Chairperson of the Council for Aboriginal Reconciliation and member of the Royal Commission into Aboriginal Deaths in Custody. The first Maori ordained priest was Wiremu Te Awhitu in 1945.

⁵⁸ Pat Dodson, "Where Are We, after 200 Years of Colonisation?", *Land Rights News*, 6.

⁵⁹ *Ibid.*, 9.

land rights. However, by 1985 the government's enthusiasm had waned, as it became apparent that the issue had not attracted adequate widespread public support. So although the boundaries of debate had shifted very much in favour of the interests of indigenous Australians, it remained the case that a largely sympathetic government was impeded in its objective by elements of political and ideological hostility. The Minister for Aboriginal Affairs, Clyde Holding, told the National Aboriginal and Islander Catholic Council that

the need to find a balance between economic interests and aboriginal land rights still prevents us from putting principles completely into practice and acknowledging the long history of the aboriginal struggle for justice, a struggle which for all its courage cannot succeed unless we are prepared to cede some of our power, some of our resources.⁶⁰

The classification of resources as 'ours', with 'us' presumably being white Australia, implied a political difficulty with the notion that the resources of Australia are for the benefit or the common good of all Australians. The implication that for the interests of indigenous Australians to be addressed white Australia would have to surrender some of what was 'theirs' overlooked the origins of Holding's 'resources'. It disregarded the possibility that 'our resources' may have arisen from the dispossession of indigenous people. Given that indigenous Australians were not claiming the return of everything they had lost, but just enough to rebuild their cultures and livelihoods, Holding's remarks were insensitive. However, as white objections to his government's *Native Title Act 1993* were to confirm, they were made within the context of a political environment containing significant hostile elements, and

⁶⁰ Frank Brennan, "The End of Mr. Holding's Dreaming", *The Catholic Worker* 1986, 5.

with the shattering of Mr Holding's dreams, the natural priorities of Australian politics are restored: 1 state rights, 2 economic interests and 3 the human rights of Aboriginal and Islander Australians.⁶¹

In his speech Holding also noted that

While the government is still committed to the advancement of Aboriginal and Islander people, it recognises that the role of governments as agents for social change is limited. It is generally left to those with the greatest need to force changes in society's thinking and attitudes to gain their rightful place in that society.⁶²

The experience of Australia's indigenous communities, and that of New Zealand's Maori population, vindicates the argument that it is those with the greatest need who must generally force change. While the role of governments as agents of change may be limited, the Church argues that governments nevertheless hold particular responsibilities towards indigenous peoples. During the 1980s these responsibilities were more readily recognised by New Zealand governments than by Australian, which in part explains the less vocal and less voluminous church contribution to indigenous policy debate in New Zealand. While the democratic pluralist nation state affords few opportunities for indigenous self-development, especially where clearly defined areas of exclusive indigenous occupation are few, New Zealand governments have allowed opportunities for limited self-determination to emerge to an extent that has not been the case in Australia. The opportunity for redress to be made for breaches of the Treaty of Waitangi and further policies to strengthen Maori input into decision-making processes and broader policies aimed at encouraging Maori development have created new opportunities for iwi and hapu to contribute to their own development.

Since the Second Vatican Council the Church too has more readily claimed responsibilities to indigenous peoples. In 1980 the Australian Bishops' Conference

⁶¹ Ibid., 5.

⁶² Ibid., 5.

argued that indigenous Australians have the right to own land communally and ‘by inalienable freehold title’.⁶³ From a Catholic perspective, the right to hold land is important because land establishes the economic and cultural foundation on which the right to exist can be realised. Without a homeland, the possibility of giving full realisation to one’s dignity is seriously compromised.

Native Title

By 1992 native title had been forced on to the political agenda by the High Court’s judgement in *Mabo and Others v. Queensland (No.2)*. The High Court rejected ‘*terra nullius*’, the notion that Australia was an empty land ‘discovered’ by Britain, which was the argument that the first British settlers had used to claim sovereignty over the continent. Although this ruling did not threaten the British claim to sovereignty, it held that sovereignty did not extinguish native title and that the two could coexist. The significance of the High Court confirming the place of land rights on the political agenda is highlighted when it is considered that in 1982 the Queensland Premier, Joh Bjelke-Petersen, could suggest in Parliament that Eddie Mabo’s litigation was part of

a long range communist plan to alienate aboriginal lands from the Australian nation so that a fragmented north could be used for subversive activities by other countries.⁶⁴

This single uncorroborated sentence from a mainstream politician and long serving state Premier indicates why it has been difficult to have indigenous land rights not only addressed, but even seriously debated. Bjelke-Petersen’s strong assimilationist convictions were on another occasion expressed thus:

⁶³ Australian Catholic Bishops’ Conference, “Aboriginal People”.

⁶⁴ Joh Bjelke-Petersen in Peggy Attlee, “Christianity and Aboriginal Culture”, *New Blackfriars*, no. 68 1987, 130.

One day we say we are a Christian nation and that we believe in one way of life. The next we say, preserve all the rituals of the goanna and the rest of it they had in the earlier days.⁶⁵

It was within the context of the emergence of native title onto the policy agenda that John Bathersby,⁶⁶ Archbishop of Brisbane, noted that Australia's treatment of its indigenous peoples was 'evil' and that this 'evil' should concern Australians

because we cannot really call ourselves a Christian nation until we have faced up to the problems squarely and engaged it with the energy and resources that it demands.⁶⁷

Nevertheless in response to *Mabo*, the Keating Government passed the *Native Title Act 1993* which came into force on 1 January 1994. The Act allowed Aboriginals the right to negotiate over the granting of mining licences on their land. The right was qualified however because a state tribunal, whose decision could in turn be overturned by a state minister, had the power to reverse the outcome of any negotiations and the Catholic Social Justice Council was concerned that Howard's Ten Point Plan for Native⁶⁸ Title would 'so constrain this right as to render it ineffective'.⁶⁹ The proposed removal of the right to negotiate represented a serious challenge to self-determination, and consequently to the prospects of reconciliation. The effective exclusion of an input into what happens to one's land, even if it can be established that mining is justified by the common good in a particular instance, is an extreme and severe limitation of property rights. Challenges to the indigenous right to negotiate indicate a marked contrast in attitude between Australia and New Zealand towards the indigenous place in the body politic. In New Zealand a

⁶⁵ Ibid., 131.

⁶⁶ John Bathersby became Bishop of Cairns in 1986 and Archbishop of Brisbane in 1992.

⁶⁷ John Bathersby, "Address to Griffith University, 20 March 1992", Brisbane, 1992.

⁶⁸ John Howard's Ten Point Plan for Native Title was a political response to issues left outstanding by the High Court in its *Wik* judgement. The Plan is discussed more fully later in this Chapter.

⁶⁹ Australian Catholic Social Justice Council, "Racism: a Blight on Society", Media Release, Sydney, 11 March, 1996.

bicultural discourse has emerged as a theoretical context for discussion about the proper relationship between the Crown and Maori and between Pakeha and Maori. Although Chapter Eight argues that biculturalism is limited from a point of view of Maori self-determination and as a policy framework which meets the requirements of subsidiarity, it is clear that biculturalism's philosophical starting point is that there must be a place for Maori in all State decision-making processes and in particular those dealing with matters immediately involving Maori, including resource management.⁷⁰ The *Resource Management Act 1991* is but one example of New Zealand legislation that gives Maori an undeniable part in the political process.

The ability for mining licences to be granted in spite of Aboriginal opposition is supposedly to allow the public interest to take precedence over the interests of indigenous land owners. In this way landowners are separated from the 'public', and their interests assumed not to contribute to those of the wider common good. Although the Act recognised native title and established procedures for determining claims to it,

the issue of whether a pastoral lease, which is essentially rented Crown land, was claimable had not been decided in *Mabo*, leaving the way open for the Wik people to launch a test case.⁷¹

The position that the Wik people asked the Federal Court to uphold was that they still held native title rights over their Cape York land in northern Queensland even though pastoral leases over that land had also been granted. The Court rejected that claim and the Wik peoples appealed to the High Court. The Court upheld the Wik position by a majority decision of 4-3. The Court held that the issuing of a pastoral lease did not have

⁷⁰ The requirement that Maori play a significant role in decision-making under the *Resource Management Act 1991* is discussed in Chapter Eight.

⁷¹ *Sydney Morning Herald* 3 May 1997. (Sydney [cited 3 May 1997]); available from <http://www.smh.com.au>

to extinguish native title, and that native title could coexist with pastoral leases. The decision was based on the consideration that in this case

the relevant leases were held to be creations of statutes [of the state of Queensland], and that, upon consideration of those statutes, the lease documents, and the facts, there was no intention to grant exclusive possession of the land to the lessees.⁷²

All seven judges of the High Court based their decisions on the understanding that the *Mabo* decision in 1992 was correct and that accordingly, the common law of Australia recognises native title. Co-existence is in some ways similar to biculturalism, which has become a prevalent political philosophy in New Zealand since the 1980s. Like biculturalism, co-existence assumes that Britain's acquisition of sovereignty does not require indigenous interests to be completely overridden by the non-indigenous. It also assumes that resources might be shared between indigenous and non-indigenous. But like biculturalism co-existence requires that ultimate power remains with the dominant partner to the extent that where there is a direct clash of interests those of the dominant will prevail because where native and pastoral titles are inconsistent, native title yields because

a Crown grant which vests in the grantee an interest in land which is inconsistent with the continued right to enjoy a native title in respect of the same land necessarily extinguishes the native title.⁷³

Further to the Court's finding that the Queensland government did not intend to extinguish native title through the legislation allowing it to grant pastoral leases, it also held that the Keating government's *Native Title Act 1993* did not intend the

⁷² Warwick Neville and Frank Brennan, "Memorandum: Native Title and the High Court, the Wik Judgement", Unpublished 1997, 1.

⁷³ *The Wik Peoples v. the State of Queensland & Ors; the Thayorre People v. the State of Queensland & Ors* High Court of Australia, 1996 [cited 5 August 2000]; available from http://www.austlii.edu.au/au/cases/cth/high_ct/unrep299.html.

extinguishment of native title.⁷⁴ The decision left the Howard government to either accept the decision or change the law. It could not, as Pauline Hanson advocated, extinguish native title because native title is a property right and section 51 (xxxi) of the Australian Constitution provides for the compulsory acquisition of property only on ‘just terms’.⁷⁵

The ruling that in the event of a conflict between the rights of native title holders and pastoral leaseholders the conflict would be resolved in favour of the pastoralist strongly suggested that the *Wik* judgement was not in fact a threat to pastoralists. Therefore it became politically easier for the Church to become actively involved in the debate. However, this was a political consideration, not a moral one, because there is no Catholic moral justification for only requiring indigenous peoples to compromise while pastoralists sacrifice nothing. Just as in New Zealand the suggestion that the Treaty of Waitangi threatens Pakeha interests is motivated by prejudice, the suggestion that the *Wik* judgement threatened pastoralists was the product of racial prejudice. The claims were motivated not by a legitimate fear of indigenous rights impeding the legitimate rights of other citizens, but by a fear that indigenous rights might impede the interests of other citizens in any way.

In the Church’s view the *Native Title Act 1993* constituted ‘small steps’ forward for aboriginal peoples.⁷⁶ One of the Church’s particular concerns was the extent of the responsibility given to states under the Act. The Victorian Church favoured Commonwealth retention of responsibility for native title because it had reservations about the Victorian government’s willingness to treat aboriginal peoples fairly. The

⁷⁴ Neville and Brennan, “Memorandum: Native Title and the High Court, the *Wik* Judgement”, 3.

⁷⁵ *The Constitution of the Commonwealth of Australia*, Sydney, N.S.W. Constitutional Commission, 1987, 51 (xxxi).

⁷⁶ Jack de Groot, Letter to Hon. Jeff Kennett, Premier of Victoria, 21 July 1993.

Church also considered that Victoria's lack of consultation with the Koorie people was a further negation of self-determination. On behalf of Victoria's bishops, Frank Little,⁷⁷ Archbishop of Melbourne, wrote to the Premier Jeff Kennett supporting the

Victorian aboriginal people in the pursuit of justice in the matter of land rights... further, the bishops support the call for consultation with the Koories in Victoria.⁷⁸

The Victorian government's response to the *Native Title Act 1993* was its *Land Titles Validation Act 1993*, which aimed at providing security for land titles granted after the enactment of the Commonwealth's *Racial Discrimination Act 1975*,⁷⁹ which forbade the granting of land title in a racially discriminatory fashion. It seemed that security for the beneficiaries of racial discrimination was the government's priority over security for native titleholders. Native titleholders could only be compensated by order of the Supreme Court. Strictly speaking the existence of a mechanism for securing compensation enhances self-determination because it provides indigenous peoples with access to the legal system on a matter of obvious concern to themselves. Given however, the cost and possible cultural barriers to lodging claims in the Supreme Court, and the fact that the decision is ultimately the Court's, this is a very limited example of self-determination.

In Victoria there was a Catholic Aboriginal view that the Kennett government was not treating the interests of Aboriginal peoples in the land rights debate honestly or even seriously. In a letter to the Premier expressing concern over the *Land Titles Validation Bill 1993*, Vicki Walker of Melbourne's Aboriginal Catholic Ministry observed:

⁷⁷ Frank Little was Archbishop of Melbourne from 1974 to 1996.

⁷⁸ Frank Little, "Letter to Hon. Jeff Kennett, Premier of Victoria, 21 July 1993".

⁷⁹ Fred Warmbrand, Department of the Premier and Cabinet, Victoria, Letter to Vicki Walker, Co-ordinator Melbourne Aboriginal Catholic Ministry, 1 September 1993.

We see no acknowledgement in your speech to the Parliament or in the legislation that justice should be seen to be done in regard to aboriginal land rights.⁸⁰

Walker then expressed

anger that, in the terminology used in your speech, you are once again reinforcing the feelings that exist in the community by alluding to the fact that all land titles may be at risk. We would again ask that you present to the Victorian community the source of your legal advice in this matter.⁸¹

The response to these concerns from the Premier's department suggested that Walker's perceptions were correct. Walker also accused the government of a 'lack of consultation with the aboriginal community',⁸² which is an important consideration for the Church, since it maintains that one of the critical features of self-determination is the right of indigenous peoples to be included in decision making about themselves.⁸³ This example of a lack of consultation contrasts with the assumption that there will be Maori participation in the affairs of the Waitangi Tribunal,⁸⁴ and that in practice a Maori jurist has chaired the Tribunal,⁸⁵ on which several other Maori have sat since its inception.

Arguments about the right of Australian Aboriginals to negotiate with mining companies over exploration of their land are essentially arguments about the extent to which white Australia is prepared to include Aboriginals in political decision making. Brennan argues that it also involves justice.

I definitely see the right to negotiate as something which provides aboriginal communities, perhaps for the first time, with some notion of self empowerment. But

⁸⁰ Vicki Walker, Letter to Hon. Jeff Kennett, Premier of Victoria, 4 August 1993, 1.

⁸¹ Ibid, 1.

⁸² Ibid, 1.

⁸³ John Paul II, 16.

⁸⁴ *Treaty of Waitangi Amendment Act 1988* (GP Print: [cited 3 May 2003]); available from <http://rangi.knowledge-basket.co.nz/gpacts/public/text/1988/se/233se2.html>.

Section 2

⁸⁵ Justice Durie chaired the Tribunal from 1980 until his retirement in 2002 from which time another Maori jurist Chief Judge Joe Williams has acted as chairperson.

I see the fundamental rationale for the right to negotiate, as justice. Woodward saw the right to veto, as basically being about this.⁸⁶

Brennan continued to describe how a denial of the right to negotiate is unjust.

Where a major mining project is to occur on aboriginal land, it is not just about physical disturbance to land, it is about major disturbance to the lifestyle and the world view of that aboriginal community. Therefore, in a civilised society, as far as one might, one tries to accommodate the situation so at the end of the day, whoever it happens to be will feel better if the local aborigines say, we are happy that they are here, rather than, we are miserable that they are here... the right to negotiate, it seems to me, was the very minimum that was necessary to try and enhance the prospect of that occurring.⁸⁷

Brennan's attitude reflects pragmatism and a belief that every effort should be made to accommodate the different groups that have an interest in mining. It is an attitude that differs from the Howard Government's (1996 -) apparent belief that Aboriginals cannot usefully negotiate and should therefore be excluded. The government's position overlooked the view that the common good may require compromise from all parties and that it is not advanced by the simple exclusion of those least positioned to challenge their exclusion.

Throughout the 1980s and 1990s land rights continued to be an important political issue and continued to concern the Church. In 1988 Leonard Faulkner, Archbishop of Adelaide, observed that land rights have

never been adequately addressed, and it is a matter that Christians are called to face... History has proved that Archbishop Polding's analysis was accurate. The taking of the land, on the pretext that it was unoccupied is a root cause of all the issues that confront aboriginal people today, in housing, in employment, in health and the death of so many young men in custody.⁸⁸

⁸⁶ Frank Brennan, "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act", Canberra: Commonwealth of Australia, 1997, 419.

⁸⁷ Ibid., 419.

⁸⁸ Leonard A Faulkner, "Pastoral Letter to Christ's Faithful of the Archdiocese of Adelaide", 18 January 1988, 2.

Land ownership is central to self-determination, but in spite of Australia's rhetoric at the United Nations, government interest in Aboriginal self-determination has generally been limited. As for the Church, for the United Nations too, one of the most important and elementary principles of self-determination is the right of indigenous peoples to be involved in decisions affecting themselves.

However, the Church noted a brief departure from this general marginalisation during the preparation of the Keating Government's *Land Fund Act 1995* when Kevin Manning, Bishop of Parramatta, described as 'exciting'

the significant and direct role being played by indigenous leaders in negotiating the crucial details of [this] legislation.⁸⁹

When the positive tone of this Social Justice Council statement is contrasted with those issued by the Church, while the Howard Government has been in office, an indication is given of the extent of the change in the political climate following its election in 1996 emerges. In the Social Justice Council's statement on the *Land Fund Act* it was stated that:

We support and welcome this legislation... and we're looking forward to the national dialogue and discussion that will be involved in dealing with the social justice package. We also strongly support the discussion of these proposals in the context of safeguarding and promoting human rights, not of welfare provision.⁹⁰

The independence that can arise from the protection and promotion of human rights is also essential to the development of peoples. In contrast charity and welfare provision can provide short-term solutions to Aboriginal problems, but in the long run do not enhance self-determination, because their purpose is not to address the causes of dependence or remove the barriers to independence.

⁸⁹ Kevin Manning, "Land Fund Act 1995: A Major Step", Media Release, June 1999, 1.

⁹⁰ Ibid., 1.

By 1996 the Howard government's determination to revoke the 'small steps'⁹¹ of Keating's *Native Title Act 1993* had shifted the boundaries of political debate to such an extent that the Church's support for the potential benefits arising from the *Mabo* and *Wik* decisions appeared overly enthusiastic. Howard had put advocacy for indigenous interests on the defensive, and therefore a focus on what was achievable, rather than on the full extent of what was legitimate, became apparent in the Church's public comments, reflecting that even when the Church challenges the basic premises 'of' this world it can only do so effectively with the political pragmatism required of any lobby group.

Jack de Groot also argued that the 'small steps' forward for indigenous peoples reflected significant compromise on their part. He maintained that rather than making the untested assumption that recognising indigenous concerns would compromise those of all other interest groups, it was 'up to the government to show that the right to negotiate with a state override, will not work'.⁹²

In John Howard's view, Keating's *Native Title Act 1993* contained 'unwarranted extensions' of *Mabo*.⁹³ The Act's 'small steps' and the 'disappointing judgement'⁹⁴ of the High Court in the *Wik* case were, he claimed, too favourable to indigenous Australians. This was in spite of *Wik* having no impact on freehold landowners or agricultural leaseholders.⁹⁵

Howard had been under some pressure, particularly from Queensland's National Party Premier Rob Borbidge, to extinguish native title. Furthermore, the leader of Howard's

⁹¹ Jack de Groot, "Letter to Peter C. Grundy, Committee Secretary, Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund", 1 October 1996, 1.

⁹² *Ibid.*, 2.

⁹³ John Howard in Frank Brennan, *A Critique of the Native Title Amendment Bill 1997* ([cited 3 February 1998]); available from <http://www.austlii.edu.au/rsjlibrary/uniya/brennan8.9.97.html>.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

National Party coalition partner, the deputy Prime Minister Tim Fischer, had suggested ‘bucketloads of extinguishment’ was the solution to the Court’s decision. Instead Howard presented a Ten Point Plan to the state premiers in April 1997.

Howard’s ten points were:

1. Validation
Any acts or grants made over non-vacant Crown land after the Native Title Act and prior to the *Wik* decision would be validated.
2. Confirmation of extinguishment of native title on ‘exclusive’ tenures
States and Territories would be able to confirm that freehold, residential, commercial and most agricultural leases and existing public works had extinguished native title.
3. Provision of government services
Essential government services would be able to be delivered to the public on native title land without extinguishing native title.
4. Native title and pastoral leases
State governments would be able to authorise the primary production activity and farmstay tourism on pastoral leases regardless of the existence of native title. Native title would not be extinguished but suppressed for the duration of the activity. Compensation would be payable by the State, not the pastoralists.
5. Statutory access rights
Registered native title claimants who had maintained physical access to pastoral leased land at the time of the *Wik* decision would obtain legislative confirmation of their rights of access. Access rights under State laws and leases would be maintained.
6. Future mining activity
There would be a higher threshold test for gaining access to the right to negotiate. On vacant crown land, the right to negotiate would be cut back to a once-only right. On pastoral leases, the right to negotiate could be removed by the State provided that native titleholders had the same procedural rights as the pastoral lessee.
7. Future government and commercial development
The right to negotiate would not be available to native title claimants within town and city boundaries. Neither would it be available for compulsory acquisition of land required for infrastructure development.
8. Management of water resources and airspace

The ability of governments to regulate and manage surface and subsurface water, acquired resources and airspace would be put beyond doubt.

9. Management of claims

States would be encouraged to process native title claims through their own systems. There would be a six-year sunset clause. Existing claims, as well as new claims, would be put through a new threshold test.

10. Agreements

Legal certainty would be guaranteed for voluntary agreements about native title, thus providing a real incentive to follow this approach.⁹⁶

Brennan suggested that the extinguishment of a common law right to native title would have been a return to *terra nullius* and that there were three factors preventing this:

It would cost the taxpayer too much. Doubts about the Commonwealth Parliament's power to do it. And the Senate, as presently constituted, would not agree because the majority of senators had given in principle recognition to the coexistence of native title on pastoral leases.⁹⁷

It was Brennan's contention that the Ten Point Plan gave pastoralists and miners more than they had before the *Wik* judgement. So instead of being an important turning point for progress on indigenous land rights as the litigants had intended, *Wik* looked like becoming a significant setback, with the effect of undermining reconciliation. The main aspects of the Ten Point plan, which would have undermined land rights, were

those requiring claimants to establish an ongoing connection with the land, a sunset clause, the opportunity for leases to be upgraded to a right of exclusive possession and the removal or limitation of the right to negotiate.⁹⁸

Therefore, Brennan argued:

There is only one hard political question for John Howard. Given the constraints of contemporary Australian political morality, is he prepared to put his name to the negotiated detail of a principled workable solution honouring the principle of coexisting native title or will he leave the detail to the Senate were aborigines will

⁹⁶ Frank Brennan, *The Wik Debate: Its Impact on Aborigines, Pastoralists and Miners*, Frontlines. Sydney, N.S.W.: UNSW Press, 1998, 54-55.

⁹⁷ Ibid. 54.

⁹⁸ Frank Brennan, *A Critique of the Howard Government's Ten Point Wik Plan* (1997: [cited 3 February 1998]); available from <http://www.austlii.edu.au/rsjlibrary/uniya/brennan21.6.97.html>.

get some hearing for land justice which does not undermine the certainty miners and pastoralists had before *Wik*.⁹⁹

Howard in fact did not put his name to any agreement until some compromise was forced by the balance of power in the Senate. For the Church, land rights is as much a religious issue as an economic one. The religious significance of land makes land rights a matter of religious freedom, which is in turn among the rights arising from the right to self-determination. In 1980 and again in 1993 the Australian Bishops argued that where land is required for religious purposes, the denial of access to it is also a denial of religious freedom. The extent then to which economic interests are allowed to override indigenous religious requirements is an indication of a society's acknowledgement of that freedom. Brennan has called for religious freedom to be guaranteed by the Commonwealth Constitution

to those whose ancestors settled and humanised the land tens of thousands of years before Abraham set out for Canaan.¹⁰⁰

In New Zealand religious freedom was guaranteed by William Hobson, at the request of Pompallier, at the time of the signing of the Treaty of Waitangi, but was later challenged by the *Suppression of Tohunga Act 1908*.¹⁰¹ Since that time however, religious freedom has not been seriously challenged in New Zealand.

The overlooking of religious factors in land disputes is partly explicable by a history of non-indigenous bureaucrats making decisions for indigenous peoples.

When the state determines the weighting to be given to the religious factor in the aboriginal relationship to land, there will always be grounds for objecting that the

⁹⁹ Ibid.

¹⁰⁰ Brennan, "Social and Political Influences on Aboriginal Spirituality", 103.

¹⁰¹ Justice Paul Temm, "Biculturalism and the Rights of Minorities", Lecture. Dunedin, 1991.

decision maker has wrongly weighted that factor against criteria which are not more objective but simply more comprehensible and appealing to the decision maker.¹⁰²

Towards Reconciliation

Cyril Hally's paper *Reconstructing The Moral Order of Society by Forgiveness and Reconciliation* draws attention to the place of the theological concept of reconciliation in public affairs. It establishes the connection between the Christology of reconciliation and its practical impact on the relationships between people. It also further clarifies why the Church considers it important to the relationship between black and white Australians:

Christian reconciliation is the drawing of persons to discover their humanity through forgiveness, repentance and reparation. It takes place internally in the victim, and leads to forgiveness of the wrong doer. Vulnerability is the condition for expressing the reconciling love of God. One is able to acknowledge and honour one's brokenness. One's personal story becomes integrated in the Christ narrative of passion, death and resurrection. It seeks repentance and forgiveness. It involves victims, wrong doers, bystanders, the dead and future generations.¹⁰³

Reconciliation takes place within an international context. The Christian seeking of reconciliation with Moslems over the Christian atrocities during the Crusades, attempts to reconcile historic differences between France and Germany following World War II, South Africa's Truth and Reconciliation Commission, and Northern Ireland's Good Friday Agreement, are all examples of internationally adopted models for overcoming political division. Theologically reconciliation is required because a communal division is inconsistent with the teaching that:

There is no longer any distinction between Gentiles and Jews, circumcised and uncircumcised, barbarians, savages, slaves, and free men, but Christ is all, Christ is in all.¹⁰⁴

¹⁰² Frank Brennan, "Land Rights, the Religious Factor". The Charles Strong Memorial Lecture. The International Congress for the Study of Religion, Melbourne, 13 July 1992, 15.

¹⁰³ Cyril Hally, "Reconstructing the Moral Order of Society by Forgiveness and Reconciliation", *Aboriginal Issues Newsletter* 2, no. 2 1998, 2.

¹⁰⁴ Paul's Letter to the Colossians, *Good News Bible: Today's English Version*. Chapter 3: 11.

Reconciliation follows from the desire to overcome sin and correct its consequences. In the Church's view it is relevant to Australia because:

One has to say that sin is structured into Australian society, and has been since 1788. What might be described as the primal (or original) sin of the Australian people is the injustice done by the European settlers to the original inhabitants of this continent.¹⁰⁵

The Church further teaches that:

Structures, whether they are good or bad, are the result of man's actions and so are consequences more than causes.¹⁰⁶

It is from this belief that the Church can further explain its interest in reconciliation.

Reconciliation concerns challenging and changing people's values, which originate

in free and responsible persons who have to be converted by the grace of Jesus Christ in order to live and act as new creatures in the love of neighbour and in the effective search for justice, self control, and the exercise of virtue.¹⁰⁷

Brennan has explained that the sin structured into Australian society from which the need for reconciliation arises is such that

the legal fiction on which this nation was founded is still working injustices today - injustices which can be alleviated without occasioning injustice to others.¹⁰⁸

A similar analysis can be equally applied to Crown and Maori relations in New Zealand since the first breaches of the Treaty of Waitangi. Reconciliation, therefore, includes the recognition of these injustices by the Crown, and their consequent redressing. In addition to the Crown acknowledging and addressing injustice, indigenous communities must

¹⁰⁵ John Wilcken, "A Theological Approach to Reconciliation", in *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights*, ed. Frank Brennan. Richmond, Vic.: Aurora Books/David Lovell Publishing, 1992, 67.

¹⁰⁶ Sacred Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the "Theology of Liberation"* IV, 15.

¹⁰⁷ *Ibid.*, IV, 15.

¹⁰⁸ Frank Brennan, "Aboriginal Affairs Policy: Where to from Here?" Address to a Protest Rally. Parliament House Canberra, 1996, 12.

forgive what has previously occurred because ‘mercy is the fulfilment of justice’.¹⁰⁹ Given the magnitude of some of the events of the past, the stolen generations, genocide and massacre in Australia, and violent land acquisition in New Zealand for example, a request for forgiveness is a significant demand of indigenous peoples. But their withholding of forgiveness prevents reconciliation.

A further theological explanation for the Church’s interest in reconciliation in a political context is that ‘the fusing of the Christological and anthropological dimensions is to be found in the person of Jesus himself’.¹¹⁰ The Church’s ultimate transcendental objective is therefore inextricably linked with the human condition, which creates a moral imperative ‘for social engagement’¹¹¹ and a theological explanation for the Church’s interest in reconciliation.

All this is from God, who reconciled us to himself through Christ, and has given us the ministry of reconciliation; in Christ God was reconciling the world to himself, not counting their trespasses against them, and entrusting the message of reconciliation to us.¹¹²

The link between Christological and anthropological dimensions was further emphasised by Michael Malone,¹¹³ Bishop of Maitland-Newcastle and his Anglican counterpart Roger Herft,¹¹⁴ when in 1998 they followed the precedent of their 1967 predecessors in issuing a joint statement in support of Aboriginal rights. The statement was in the form of an open letter to John Howard. While the letter acknowledged the Prime Minister’s work,

¹⁰⁹ Aquinas, *St Thomas Aquinas, Theological Texts*, 41.

¹¹⁰ Prowse, “Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion”, 38.

¹¹¹ *Ibid.*, 36.

¹¹² Paul’s Second Letter to the Corinthians, *Good News Bible: Today’s English Version*. Ch 5: 18-19.

¹¹³ Michael Malone became Bishop of Maitland-Newcastle in 1995. He is a member of the Australian Catholic Bishops’ Committee for Social Welfare. He has been among the more vocal members of the hierarchy in support of indigenous aspiration. Malone claims a particular interest in reconciliation and in the Church being involved in the secular world. Diocese of Maitland-Newcastle, *About Our Bishop* ([cited 12 December 2002]); available from http://www.mn.catholic.org.au/bishop/about_bishop.htm.

¹¹⁴ Roger Herft is Anglican Bishop of Newcastle and a former Bishop of Waikato, New Zealand.

it pointedly implied that Howard was allowing political impediments to reconciliation to continue and that his government's approach lacked 'moral integrity'. The letter was signed

Yours in Christ, wounded, rejected, crucified on Calvary, yet risen, ascended, glorified and in whose presence none of us stand unblemished.¹¹⁵

This concluding remark made the connection between the political dimensions of reconciliation, which the letter addressed, and its Christological foundation and significance. It was a blunt criticism of the Prime Minister's handling of a political problem, yet by making their point in such obviously religious language they were also indirectly answering the criticisms of those who objected to the Church's place in politics. The Church's place is in religion, but from the bishops' perspective their religious ideals were being compromised in the political arena, therefore their comments were religious, not strictly political.

Leonard Faulkner, Archbishop of Adelaide, suggested that Australians had already 'been diminished by the injustice that has been done to Aborigines' and that consequently 'all of us are in need of conversion, and the saving power of God which can set us free'.¹¹⁶

Faulkner has provided further insight into the Church's understanding of reconciliation, and in particular the relationship between reconciliation and land rights.

Reconciliation is at the heart of the Christian message... God's reconciling love shatters all barriers and reaches out to embrace us all... Why is the Mabo decision so important? First of all we Christians see it as the beginning of a legal righting of the wrongs done to the group of people who have been dispossessed and suffered terribly. But, as well, we would want to say that it is a matter of great importance for all Australians that our nation is built on truth and not on a lie... at the core of the sinful situation is the historical reality that aboriginal people were pushed off

¹¹⁵ Herft, Roger and Michael Malone. Anglican Bishop of Newcastle and Roman Catholic Bishop of Maitland-Newcastle, "Letter to Hon. John Howard, Prime Minister", 9 April 1998

¹¹⁶ Leonard A Faulkner, "Pastoral Letter to Christ's Faithful of the Archdiocese of Adelaide", 18 January 1998, 2.

their lands. We Christians have much to contribute to this process (reconciliation). First of all at the political level we can support the work of justice for aboriginal people, and the movement towards national reconciliation. Our political support may well include public acts such as letter writing and contact with our members of Parliament.

But our commitment to reconciliation will be expressed primarily in our day to day contact with people. Let us be leaders on this issue, challenging racist attitudes in our workplaces, our neighbourhoods and our homes. Let us become known as people who identify with the cause of justice for aboriginal people of this land, who value their culture and history, and who are working for a future for Australians of all races. This kind of leadership is a central part of our vocation as Christian believers.¹¹⁷

In 1991, in spite of the political rejection of a Treaty, the Hawke Government had further positioned the religious word ‘reconciliation’ as a part of Australian political discourse by establishing the Council for Aboriginal Reconciliation. The final recommendation of the Royal Commission into Aboriginal Deaths in Custody¹¹⁸ also ‘helped to solidify the necessary political support’ for reconciliation.¹¹⁹ The recommendation was

That all political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided.¹²⁰

The Aboriginal Reconciliation Council’s goal was consequently to establish

a lasting foundation for reconciliation which will ensure that Australians can proudly celebrate the centenary of our nationhood in 2001, and continue working together to achieve the Council’s vision of a united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.¹²¹

In its first term the Council focused on developing public support for reconciliation, and in its second from 1994, it promoted a range of activities designed to encourage public

¹¹⁷ Ibid., 2.

¹¹⁸ The Royal Commission into Aboriginal Deaths in Custody was established to investigate the deaths in custody of 99 indigenous Australians between 1980 and 1990.

¹¹⁹ Azalia Canuto Ah Mat, *Uniya Newsletter* Autumn 1995, 1.

¹²⁰ Royal Commission into Aboriginal Deaths in Custody, *National Report*. Canberra: Australian Govt. Pub. Service, 1991: Recommendation 339.

¹²¹ Council for Aboriginal Reconciliation, ([cited 7 January 2003]); available from <http://www.austlii.edu.au/au/orgs/car/>.

demonstration of that support, including the Australian Reconciliation Convention in Melbourne in 1997, and the National Sorry Day the following year. The Council established three main goals for the final three years leading up to the centenary of Australian federation in 2001. The first was to have acknowledged in the Commonwealth Constitution a 'document of reconciliation' intended to achieve 'recognition and respect for the unique position of Aboriginal and Torres Strait Islander peoples as the indigenous peoples of Australia'. Secondly the Council aimed to encourage community partnerships to 'achieve social and economic equality for Aboriginal and Torres Strait Islander peoples'. The third goal was to establish 'The People's Movement for Reconciliation' which was intended to

achieve justice and equity for all Australians [and] embrace the unique place of indigenous peoples in the life of the nation¹²²

The Council's first objective received a set back when a referendum to amend the preamble to the Constitution was lost in November 1999. The proposed amendment spoke of

honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country.¹²³

This proposition did not enjoy the full support of Aboriginal and Torres Strait Islander

¹²² Ibid.

¹²³ Ibid.

communities and was one of many issues put as one question in the referendum.¹²⁴ The second goal still requires considerable work before it is realised, while the third is more a statement of rhetoric than of substance.

That the Reconciliation Council nevertheless developed widespread community support, and that by 1998 reconciliation was an ‘immovable part of the Australian political landscape’¹²⁵ is suggested by John Howard’s failure to secure support for those elements of his Ten Point Plan on Native Title that most undermined reconciliation, and also by the apparent long-term failure of Pauline Hanson’s One Nation Party. A party which George Pell,¹²⁶ Archbishop of Melbourne, suggested adopted policies which ‘sets groups of Australians against one another.’¹²⁷ Further evidence that reconciliation has become an immovable part of the political landscape can be found in the final report of the Reconciliation Council which was released in December 2000. The report ironically placed a treaty back on the political agenda by recommending the enactment of legislation

¹²⁴ The amendment read: With hope in God, the Commonwealth of Australia is constituted as a democracy with a federal system of government to serve the common good. We the Australian people commit ourselves to this Constitution proud that our national unity has been forged by Australians from many ancestries; never forgetting the sacrifices of all who defended our country and our liberty in time of war; upholding freedom, tolerance, individual dignity and the rule of law; honouring Aborigines and Torres Strait Islanders, the nation’s first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country; recognising the nation-building contribution of generations of immigrants; mindful of our responsibility to protect our unique natural environment; supportive of achievement as well as equality of opportunity for all; and valuing independence as dearly as the national spirit which bind us together in both adversity and success. The Constitutional Centenary Foundation, *Factsheet 1999 Referendum: Preamble* (1999: [cited 28 January 2003]); available from http://www.centenary.org.au/involving_people/referendum_on_republic/New_preamble.pdf.

¹²⁵ Frank Brennan, “A Free Speaking Church Goer’s Guide to Wik in ‘98”, *Uniya Focus* No. 3 March 1998. Sydney. Uniya Jesuit Social Justice Centre, 1998.

¹²⁶ A bishop since 1987, George Pell was appointed Archbishop of Melbourne in 1996 and was transferred to Sydney in 2001. He is a member of the Pontifical Council for Justice and Peace and was created cardinal in 2003.

¹²⁷ George Pell, “Homily, Aboriginal and Torres Strait Islander Sunday”, St. Patrick’s Cathedral, Melbourne, 5 July 1998, 2.

to put in place a process which will unite all Australians by way of an agreement, or treaty, through which issues of reconciliation can be resolved.¹²⁸

Howard did not unequivocally dismiss the notion of a treaty as he had done when Hawke proposed it in 1988. Instead he expressed 'reservations', but confirmed that the recommendation would be considered albeit 'against the background of positions that we have stated previously'.¹²⁹

That there has not been a Treaty is of important political significance. Yet it has not detracted from the Church's ability to present religious argument in political discourse in the way that one might expect from the New Zealand Church's tendency to emphasise the Treaty of Waitangi as a moral force, in preference to its own magisterium, as a moral authority contributing to the resolution of injustice. The Australian Catholic Church has found powerful and authoritative arguments in its own social teaching that have drawn public attention to religious rights that can be addressed only within the political arena.

Saying 'Sorry': a Pre-Condition of Reconciliation

Saying 'sorry' is an essential pre-condition of reconciliation. But who should say 'sorry', to whom, and for what, are questions that have occupied Australian political discourse in the aftermath of the *Bringing Them Home*¹³⁰ report. Both the *Bringing Them Home* report and the political responses to the High Court's recognition of native title raised important points of religious principle, which the Church had to address amidst the political tension

¹²⁸ Council for Aboriginal Reconciliation, 2003.

¹²⁹ John Howard, *The Age*, 8 December 2000. (Melbourne [cited 8 December 2000]); available from <http://www.theage.com.au>

¹³⁰ *Bringing Them Home* was the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families published in 1997. The report was commissioned by the Commonwealth Attorney-General and was required to report on removal policies, make recommendations about compensation and make recommendations consistent with self-determination on existing laws and practices concerning the care of indigenous children. Human Rights and Equal Opportunities Commission, *Bringing Them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (April 1997: [cited 29 January 2003]); available from <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/hreoc/stolen/prelim.html#terms>.

between a troubled national conscience on the one hand, and the opportunity that the notion of apology created for the re-emergence of a deep-seated prejudice within the white Australian community.

The suggestion that private individuals might say 'sorry' for the removal of indigenous children from their families has been criticised on the grounds that it implies an acceptance of moral culpability by people who had no part in the development or implementation of the policy. There was also a view that saying 'sorry' detracts from addressing the pressing material needs of indigenous Australian communities – an incompatibility between the symbolic and the tangible.

The most public demonstration of Church support for reconciliation was its association with the first National Sorry Day on 26 May 1998.¹³¹ In the title of its Sorry Day media statement, *Bishops Seek Forgiveness from the "Stolen Generation" on National Sorry Day* the Bishops' Conference re-stated the theological requirement that forgiveness is a precondition of reconciliation. Many of the Church activities throughout the country also highlighted the relationship between reconciliation as a theological concept, and reconciliation as a political goal.

Among the national sponsors of the day was Kevin Dance,¹³² President of the Australian Conference of Leaders of Religious Institutes, the national Catholic body representing Australia's 10,000 religious. Dance noted the theological dimension to saying sorry, and thereby drew attention to the possible reason for Howard's refusal to do likewise. Dance said that:

¹³¹ An annual National Sorry Day was recommended in the *Bringing Them Home* report to acknowledge the impact of the separation of indigenous families.

¹³² Kevin Dance is a priest of the Passionist Order. As President of the Australian Conference of Leaders of Religious Institutes he took a prominent role in giving public expression to Church thought on reconciliation.

Saying sorry also commits us to work in a creative partnership with the indigenous people of Australia in overcoming the tragic aftermath of this pain and loss.¹³³

While the Church sponsored the Sorry Day at a national level, many local churches expressed their own endorsement of Sorry Day as an important part of the reconciliation process. In the diocese of Broome, for example, support for the political purpose of reconciliation was evident in the explanation for the establishment of a 'Kimberley Sorry Book'. Its purpose included the sending of 'a clear message to our national parliament that we are capable of saying sorry'.¹³⁴ The Diocese of Broome believed that the National Sorry Day had significance to the reconciliation process because at a theological level

Jesus promised that his followers would know the truth, and that this truth would set them free.¹³⁵

The political significance of this promise in the context of Australian reconciliation was explained.

We are hoping that facing the truth of what happened to our indigenous people will free our nation from this dark and disgraceful chapter of our history, ensure that the effects of past actions will be addressed in the present and that such acts will not be repeated in the future.¹³⁶

In a contribution to Broome's diocesan newsletter later in 1998, Wood argued that if these hopes for reconciliation were to be realised then reconciliation would have to be developed from the level of individual Australians. In a statement which suggested the depth of Australian prejudice towards Aboriginals, and the need for change to be built on the strength of widespread community pressure, Wood said

¹³³ Kevin Dance, "We Are Sorry" Words Which Aren't Enough, but a Vital Beginning", Media Release, 22 May 1998, 1.

¹³⁴ Shane Wood, Media Release, Broome, 26 May 1988.

¹³⁵ Shane Wood, Media Release, Broome, 20 May 1998.

¹³⁶ Ibid.

We have to continue our own personal efforts to form closer relationships with Aboriginal people and to face up to the stereotypes and prejudices that are still ingrained in the Australian psyche.¹³⁷

Obstacles to reconciliation included the viewing of Sorry Day by some white Australians as an attempt to impose guilt. For the National Reconciliation Council and for the Church however the purpose of Sorry Day was not the imposition of guilt, but the acceptance of responsibility for redressing the mistreatment of Aboriginals. In Catholic churches and schools throughout Australia, Sorry Books were signed by numerous Catholic clergy, religious and lay people. In the Archdiocese of Canberra and Goulburn, for example, the Sorry Books were presented to Aboriginal people at an especially celebrated Mass. At the Mass attended by several hundred school children the Archbishop, Francis Carroll,¹³⁸ addressed the suggestion that it was not for present generations of white Australians to apologise because they were not responsible for what had previously been done to indigenous peoples. Carroll argued that

If we have not come to terms with the pain, injustice and mistakes, there will always be a weakness... we regret the past two hundred years and know the present reconciliation difficulties.¹³⁹

The 'reconciliation difficulties' to which Carroll referred related to the political unwillingness to satisfy Aboriginal concerns over native title and recompense for the stolen generations.

Furthermore the Australian Catholic Social Justice Council noted that Sorry Day

does not mean everyone should feel guilty today. It is a day to acknowledge the truth about the injustice of past governments... it is a day to hear and understand the

¹³⁷ Shane Wood, "Kimberley Community Profile", 3 November 1998, 2. Broome. Unpublished.

¹³⁸ Francis Carroll was Bishop of Wagga Wagga from 1968 until 1983 when he became Archbishop of Canberra and Goulburn. From 1986 – 2000 he was Vice-President of the Australian Catholic Bishops' Conference. Under Carroll's vice-presidency the Australian Bishops' Conference showed unprecedented interest in political violations of the rights of indigenous Australians. He became President of the Conference in 2000.

¹³⁹ Francis Carroll, *Catholic Voice* 3 August 1998.

pain of Aboriginal and Torres Strait Islander families. Acknowledging the truth will set us all free. It is a day for us all to say that we are sorry that these things happened.¹⁴⁰

Interpretations of National Sorry Day as an attempt to impose guilt came largely from those seemingly opposed to reconciliation itself. Interpretations of that kind were a hindrance to political reconciliation and inconsistent with theological reconciliation.¹⁴¹

Prowse argued for example, that for the Church,

concepts of collective Catholic guilt are to be dismissed as theologically without foundation and, indeed, adding unnecessary confusion to the issue.¹⁴²

However, today's Catholics have a responsibility to resist any attempts to perpetuate disadvantage. It is the recognition of this responsibility that has motivated the Church's denunciations of the continuance of policies and practices detrimental to indigenous well being. Prowse described this as 'a grave moral responsibility', and present day Catholics

like all Australians (have) to dispel the ideologies, ignorance and biases in which racist attitudes may still fester and largely be hidden from conscious awareness.¹⁴³

Sorry Day was considered an essential requirement for progressing Aboriginal concerns. As the Bishops' Conference had said in its response to the 1993 *Mabo* decision of the High Court, 'Government policies and court cases do not change people's hearts',¹⁴⁴ nor in New Zealand do Treaty of Waitangi settlements. The bishops' point was emphasised again in 1998 by Liz Curran, with reference to the stolen generations.

¹⁴⁰ Australian Catholic Social Justice Council, "Social Justice Council Marks National Sorry Day", Media Release, Sydney, 26 May 1998, 2.

¹⁴¹ Prowse, "Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion", 118.

¹⁴² *Ibid.*, 118.

¹⁴³ *Ibid.*

¹⁴⁴ Australian Catholic Bishops' Conference, "International Year of Indigenous People. A New Partnership with Our Indigenous People", Pastoral Letter, 10 December 1992.

The whole issue of the stolen generation is one which transcends the political, the legal and the monetary and is one which requires the true elements of reconciliation, that is contrition and conversion of heart.¹⁴⁵

Curran implied that significant and long-term policy change is impeded if this conversion does not occur. She also noted that

in this whole debate there has been little contrition and a serious lack of conversion of heart from the government.¹⁴⁶

That the compensation and assistance provided to victims of the removal policy was minimal was inconsistent with the Catholic view that

The state, at the level of both the Commonwealth and state... has [a]... responsibility, both as representatives of the whole Australian people and as the formal juridical entities to which people may look to assume legal responsibility for the actions of past governments. This responsibility is to work for the common good through reconciliation and the promotion of self-determination for Aboriginal and Torres Strait Islander people.¹⁴⁷

Brennan, however took an alternative position. While noting that it was on Aboriginal 'dispossession... that we have constructed the monolith which is Australian society and its prosperity', he then said that

this is not to argue that we must pay reparations for the sins of our forefathers perpetrated on others' forefathers. It is to say that we have a duty to share the fruits of those sins with those who suffered by them and to continue to suffer.¹⁴⁸

Reconciliation requires reparation, because reparation is the fulfilment of justice. It is a sharing of the 'fruits of those sins' with indigenous Australians. The two responsibilities are not the same. If the responsibility to share the benefits of an economy and society that

¹⁴⁵ Liz Curran, "Reconciliation: More Than Merely Words and Concerns About Money", Media Release, Melbourne, 8 January 1998, 1.

¹⁴⁶ *Ibid.*, 1.

¹⁴⁷ Australian Catholic Bishops' Committee for Social Welfare, "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families", 58.

¹⁴⁸ Frank Brennan, "Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility", in *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, ed. Frank Brennan, et al. Blackburn, Victoria: Collins Dove. 1986, 18.

has been built on indigenous dispossession is other than making reparation, then a duty of justice, to compensate for missed opportunities, is overlooked.

Catholic doctrine suggests that the right to development is more than social charity, and unless the right of indigenous people to enjoy the benefits of Australian society is recognised then reconciliation cannot occur. However, the reparation that is a precondition of reconciliation does not need to be to the fullest extent that a purely economic assessment of indigenous dispossession might require. Not only would that be politically and economically unachievable, it would not be justifiable in Catholic doctrine because it would impose a burden on non-indigenous Australians which would be inconsistent with the Catholic requirement to maintain the common good.

An alternative position is that identified by Dodson, who claimed that

we do not begrudge what non-Aborigines have achieved for themselves. However, the splendour of technological advancement, and even some of the civil and political advances made by them, have not really included us, even though those things could not have been done without us, or our Land.¹⁴⁹

Peter Read suggested that reconciliation requires an endorsement from all parties that is given effect in practice, not just in word. The need for this to occur as a precondition of reconciliation was stated by one of the plaintiffs in the Mabo case, David Passi: 'give us freedom and justice first, then we will take reconciliation'.¹⁵⁰ The Church's contribution to notions of reconciliation in both Australia and New Zealand is based on the same position. Although reconciliation cannot be achieved without the endorsement of both black and white Australia it remains that

nothing can be achieved in any permanent way until the problem is perceived as being, initially, a white problem. Whites do have to change.¹⁵¹

¹⁴⁹ Pat Dodson, "Where Are We, after 200 Years of Colonisation?" *Land Rights News* 1988, 6.

¹⁵⁰ David Passi, Quoted in Ah Mat, 1.

¹⁵¹ L.A. Hall, "People of the Problem", *St. Mark's Review* December 1981, 37.

It is the history of paternalism and the traditional politics of exclusion that white Australia must change if reconciliation is to occur. The Prime Minister Paul Keating made these points in 1992:

The starting point might be to recognise that the problem starts with us non-Aboriginal Australians.

It begins, I think, with the act of recognition. Recognition that it was we who did the dispossession. We took the traditional lands and smashed the traditional way of life. We brought the disasters. The alcohol. We committed the murders. We took the children from their mothers. We practised discrimination and exclusion. It was our ignorance and our prejudice. And our failure to imagine these things being done to us.¹⁵²

But there are examples from New Zealand, which demonstrate the symbolic importance of saying ‘sorry’, and show that reparation, which includes sharing the benefits of an economy built on dispossession, is required as a consequence.¹⁵³

While many white Australians have expressed sorrow for past mistreatment of Aboriginals, the refusal of the Howard Government to do the same remains an important barrier to reconciliation. Until late in 2000 Howard’s position had consistently been:

I don’t think a formal statement of that kind is appropriate because I don’t believe that current generations of Australians should be seen as responsible for deeds over which they had no control and in which they had no involvement.¹⁵⁴

Howard was motivated by a fear that the acknowledgement of earlier abuse of indigenous peoples would render the Commonwealth liable for compensation. In a letter to Brennan, the Minister for Aboriginal Affairs John Heron explained that:

The Government does not support an official national apology. Such an apology could imply the present generations are in some way responsible and accountable

¹⁵² Paul Keating, “The Redfern Park Speech”, in *Essays on Australian Reconciliation*, ed. Michelle Grattan Melbourne: Bookman Press Pty Ltd. 2000, 61.

¹⁵³ See discussions of Treaty of Waitangi settlements in Chapter Seven.

¹⁵⁴ John Howard, *Sydney Morning Herald*, 27 January 2000. (Sydney [cited 27 January 2000]); available from <http://www.smh.com.au>

for the actions of earlier generations, actions that were sanctioned by the laws of the time, and that were believed to be in the best interests of children concerned.¹⁵⁵

That the actions to which Heron refers were ‘sanctioned by the laws of the time’ does not morally excuse them. The suggestion that these actions were in the ‘best interests of the children concerned’ may have been true in some cases but is not a valid generalisation to make about separation policies per se. The emotive simplicity of an argument that ‘present generations are in some way responsible and accountable for the actions of earlier generations’ is its political attractiveness. Heron ascribed an indefensible position to his opponents and then dismissed it. The position was indefensible because as John Paul noted in his apology for the Church’s faults of the past in 1999,

the imputability of a fault cannot properly be extended beyond the group of persons who had consented to it voluntarily, by means of acts or omissions, or through negligence.¹⁵⁶

But Heron’s was a much simpler approach than to try to argue genuinely with an alternative point of view. It would seem that genuine engagement in argument so that a broadly acceptable solution might arise was not the government’s intention.

On the basis of its theology of reconciliation, the Bishops’ Conference suggested that there was no moral integrity in the argument that because the removal of children had been legal at the time it occurred, there was no obligation on the government to make recompense to those affected.¹⁵⁷ This government view differs sharply from the approach of successive New Zealand governments, which have acknowledged a responsibility to

¹⁵⁵ John Heron, Letter to Father Frank Brennan, SJ, 21 August 1996.

¹⁵⁶ John Paul II, *Memory and Reconciliation: The Church and the Faults of the Past* (Vatican City, 1999: 1.3 [cited 1 July 2003]); available from http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20000307_memory-reconc-itc_en.html.

¹⁵⁷ Australian Catholic Bishops’ Committee for Social Welfare, “Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families”, 58.

compensate Maori for injustices perpetrated by previous administrations. In New Zealand the arguments are not about whether or not to provide redress, rather they concern the form and extent of that compensation.

Howard cannot at once claim to support reconciliation and refuse to make a government apology. An aggrieved party can not forgive unless the institution responsible for the wrongdoing acknowledges, and, as far as possible rectifies or compensates those who are aggrieved. Nevertheless, there remains broader political and community support for the notion. Yet Howard did not see a conflict between refusing to say ‘sorry’ and moving a Motion of Reconciliation in the House of Representatives in August 1999. Given Howard’s approach to native title the previous year the motion represented a significant shift in his thinking towards the centre ground. The motion was supported in the Senate by the Aboriginal senator Aden Ridgeway and was passed by both Houses. The motion read:

That this Parliament:

- a) reaffirms its wholehearted commitment to the cause of reconciliation between indigenous and non-indigenous Australians as an important national priority for Australians;
- b) recognising the achievements of the Australian nation commits to work together to strengthen the bonds that unite us, to respect and appreciate our differences and to build a fair and prosperous future in which we can all share;
- c) reaffirms the central importance of practical measures leading to practical results that address the profound economic and social disadvantage which continues to be experienced by many indigenous Australians;
- d) recognises the importance of understanding the shared history of indigenous and non-indigenous Australians and the need to acknowledge openly the wrongs and injustices of Australia’s past;

- e) acknowledges that the mistreatment of many indigenous Australians over a significant period represents the most blemished chapter in our international history;
- f) expresses its deep and sincere regret that indigenous Australians suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel as a consequence of those practices; and
- g) believes that we, having achieved so much as a nation, can now move forward together for the benefit of all Australians.¹⁵⁸

If Howard's support of the motion is to become more than symbolically important to reconciliation, then it needs to be accompanied by demonstrable evidence of the 'practical reconciliation' that he sometimes advocates. For Howard practical reconciliation is

more than recognition of the damaging impact on people's lives of the mistaken practices of the past. It also calls for a clear focus on the future. It calls for practical policy making that effectively addresses current indigenous disadvantage particularly in areas such as employment, health, education and housing.¹⁵⁹

Howard moved even further towards the centre ground in his response to the final report of the Council for Aboriginal Reconciliation in December 2000. He accepted that reconciliation had become an 'unstoppable force' and implied that it could contribute to the provision of justice for indigenous Australians.¹⁶⁰ He also spoke of 'the special place' of indigenous peoples in the life of the Australian nation.¹⁶¹ However, without accompanying legislation of sufficient substance to meet legitimate indigenous aspirations, then the statement is symbolically rather than practically important, and does not meet the full requirements of reconciliation.

¹⁵⁸ Quoted in John. Howard, "Practical Reconciliation", in *Essays on Australian Reconciliation*, ed. Michelle Grattan. Melbourne. Bookman Press Pty Ltd, 2000, 94-95.

¹⁵⁹ *Ibid.*, 89.

¹⁶⁰ John Howard, *The Age* 8 December 2000. (Melbourne [cited 8 December 2000]); available from <http://www.theage.com.au>

¹⁶¹ *Ibid.*

The Commonwealth Parliament remains the only Parliament in Australia not to have formally recorded an apology to those indigenous Australians who were removed from their families.

On the motion of the Premier Jeff Kennett, the Victorian Legislative Assembly apologised

to the Aboriginal people on behalf of all Victorians for the past policies under which Aboriginal children were removed from their families and expresses deep regret at the hurt and distress this has caused and reaffirms its support for reconciliation between all Australians.¹⁶²

The Tasmanian Premier Tony Rundle moved that the State's Legislative Assembly express

its deep and sincere regrets at the hurt and distress caused by past policies under which Aboriginal children were removed from their families and homes, apologises to the Aboriginal people for those past actions and reaffirms its support for reconciliation between all Australians.¹⁶³

In an act of further symbolism the Tasmanian Legislative Assembly took the unusual step of inviting a representative of Tasmania's indigenous peoples to address it. Annette Peardon told the Assembly 'of the hurt, the pain caused by the government policy aiming to try to make us white'¹⁶⁴

In the federal House of Representatives the Government defeated Kim Beazley's motion of apology. Howard's concern for practical reconciliation assumes an incompatibility with the symbolic features of saying 'sorry' or perhaps that saying 'sorry' detracts from addressing matters of tangible substance. A consideration of Kim Beazley's motion of

¹⁶² Jeff Kennett, *Victorian Parliamentary Debates* (17 September 1997: [cited 31 January 2002]); available from <http://www.austlii.edu.au/au/other/IndigLRes/1998/2/vic.html>.

¹⁶³ Tony Rundle, *Tasmanian Parliamentary Debates* (13 August 1997: [cited 31 January 2002]); available from <http://www.austlii.edu.au/au/other/IndigLRes/1998/2/tas.html>.

¹⁶⁴ Annette Peardon, *Tasmanian Parliamentary Debates* (13 August 1997: [cited 31 January 2002]); available from <http://www.austlii.edu.au/au/other/IndigLRes/1998/2/tas.html>.

apology in the House of Representatives following the release of the *Bringing Them Home* report indicates that Howard's is an unduly narrow position and that the practical reconciliation he proposes is selective. At once Beazley was able to 'unreservedly apologise to Aboriginal and Torres Strait Islander Australians for the separation policies' and address issues surely relevant to practical reconciliation for indigenous families affected by policies of separation. Beazley's unreserved apology was followed by explicit practical substance in the motion's call

on the Federal Government and State governments to establish, in consultation with Aboriginal and Torres Strait Islander communities appropriate processes to provide compensation and restitution, including assistance for the reunification of families and counselling services.¹⁶⁵

Beazley's argument was important because it paralleled the requirements of theological reconciliation. That is, that reconciliation requires a genuine acknowledgement of wrong doing and a genuine intention not to repeat that wrong doing followed by measures to address its ongoing impact. Practical reconciliation alone has in contrast an appearance of mere charity. Refusing to say 'sorry' would suggest a denial of wrong doing therefore the conclusion might be drawn that the indigenous predicament is one of bad luck rather than the legacy of chosen policy options.

In moving the motion Beazley noted that many of the instances and incidents to which the *Bringing Them Home* report referred occurred while his party was in government. He therefore said that:

For those things that we are responsible for I apologise, as Leader of the Australian Labor Party. This is a terrible, terrible record.¹⁶⁶

¹⁶⁵ Kim Beazley, *Federal Parliamentary Debates* (28 May 1997: [cited 31 January 2002]); available from <http://www.austlii.edu.au/auother/IndigLRes/1998/2/cth.html>.

¹⁶⁶ Ibid.

His consideration of his party's responsibility in the present rather than past tense is not an acceptance of the proposition that current members of his party bear personal responsibility for the policy decisions of their predecessors. Instead it can perhaps be seen as an acknowledgement of the report's finding that the impact of policies of separation continues to have impact on the lives of many indigenous families. For that, the Australian Labor Party is arguably responsible, not in the sense of an inherited moral culpability, but in the sense of a responsibility for ensuring that ongoing impact is to the greatest extent possible minimised through the political process.

Beazley's speech further highlighted a particular barrier to reconciliation - namely an apparently selective attitude to issues of compensation - a selectivity with all the appearance of being based on race. Beazley suggested this point by contrasting attitudes to compensation of indigenous Australians with other contemporary concerns which had involved compensation. Beazley told the House of Representatives that:

The question of compensation is a question which governments consider repeatedly. They consider it in relation to people who have committed acts, either whilst in government or in private organisations, without any maliciousness at all. The people who invented particular breast implant procedures, for example, did not invent those with an intention to do malicious harm to women in our community. Yet compensation is expected of them. What about the people who originally planned, for example, situations which saw folk who were not actually orphans, nevertheless declared such, taken out from Britain and settled in Australia, and themselves experiencing some of the things - not all of the things, but some of the things - that the Aboriginal community experienced... Why should not the Aboriginal people of this nation be accorded equality? Why not? Why not let the Aboriginal people of this nation have the same experience and the same access? When, for malicious reasons or non-malicious reasons, deep personal damage is done to you, you have recourse. Why not? Why should that not happen? Why are they not people who are at least equal to us in the opportunities that are available to them?¹⁶⁷

Howard's practical reconciliation lacks substance because

¹⁶⁷ Ibid.

the practical implications of reconciliation in health and education, essential as they are, cannot be fully appropriated without apology.

Those who are in great pain cannot experience health until dignity has been restored. An act of apology will do much to facilitate this restoration of dignity.¹⁶⁸

There has been a tendency for antagonists towards saying 'sorry' to portray an apology as incompatible with policies targeted towards indigenous material and social development. For example, Peter Howson, Aboriginal Affairs Minister in the McMahon Government – arguably the last to unapologetically promote assimilation – has suggested that there should not be an apology because 'education and employment are more important than hearing the word "sorry"'.¹⁶⁹ Howson further argued that

most Aboriginal children of mixed blood were removed by their parents and removals by the government of children were almost all with parental consent.¹⁷⁰

This is significant because it suggests that in fact there is nothing for which to be sorry, whereas in Catholic thought recognition of wrong doing is the precondition of reconciliation, and a precondition on which further development might be based. Therefore without recognition of wrong doing what is the basis of further development? Strong assimilationist tones remained evident in the former minister's thinking in 2000 in his suggestion that

the granting of land rights to some Aborigines (though on a communal basis only) has created cultural and economic cul-de-sacs and has made them largely dependent on the dead-end of social welfare...

The situation of these traditional communities has been compounded by the accompanying attempts to promote Aboriginal cultures, including languages. One result is that 80 per cent of Aboriginal children are illiterate as revealed by the recent report of Northern Territory education by former Labor senator Bob Collins.¹⁷¹

¹⁶⁸ Francis Carroll, *Catholic Leader* 11 June 2000.

¹⁶⁹ Peter Howson, *Sydney Morning Herald* 10 May 2000. (Sydney [cited 10 May 2000]); available from <http://www.smh.com.au>

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

Just as he did in the early 1970s, Howson continues to advance assimilation. Just as it did in the early 1970s, the Church continues to advance land rights and self-determination. What has changed is that developments in popular political thought have relocated Howson from the mainstream to the fringes of debate and in contrast realigned the Church's religious principles in relation to contemporary political ideas. Constant religious principles have been shifted from the fringe to sit comfortably alongside political preferences of a sizeable sector of the Australian body politic.

There is a logical inconsistency in Howson's suggestion that there is a causal link between the promotion of Aboriginal languages and Aboriginal illiteracy. Although it is not explicitly stated one assumes that the reference is to English literacy, which is a requirement of a functional literacy in Australia, but that literacy in the appropriate indigenous language is not considered because it is inconsistent with the view that

instead of promoting the outdated concepts of separate development and past injustices, an entirely new approach is needed, one which reverses the separatist policies and rhetoric of past injustices and, instead, promote closer Aboriginal involvement in the wider community.¹⁷²

It is the shift of these views from the centre to the periphery of contemporary political debate that has created an opportunity for the Church to form alliances of common endeavour so that its 'outdated' principles might be advanced.

Summary

Secular political developments in Australia from the 1960s onwards broadened the parameters of indigenous policy debate. Political space was consequently created to allow an institution 'in' but not 'of' this world to respond to the Second Vatican Council's directive that historical inattention to the political implications of Catholic theology

¹⁷² Ibid.

discontinue. While the public advocacy of religious principle is more easily achieved in a political environment which accepts a plurality of views, it nevertheless remains that the institutional willingness to so advocate was a departure from general, although not exclusive previous practice. It was in this context that in the 1990s the Church encouraged and developed the use of reconciliation – a theological precept – as a political framework for the resolution and rectification of injustice against indigenous Australians.

CHAPTER SIX

Reconciliation, Land Rights and Australian Religious Activism in the Political Arena

Introduction

Land rights and reconciliation dominated indigenous policy debate during the 1990s, and provided opportunities for significant religious activism within the political arena. In this way secular context could be given to the magisterium. This activism was led by John Paul II through his speech to indigenous Australians at Alice Springs in 1986, and subsequent less prominent magisterial documents. In Catholic terms this activism was required in spite of secular criticism, because of the important religious issues at stake. It was an activism that recognised that religious mission takes place within the context of contemporary political circumstance and that an ignoring of that context would necessarily constitute an ignoring of religious mission. It became clear that the Church had come to a realisation that where religious goals have public implications, those implications can not but be attended to within the secular political realm. That same realisation occurred at a similar time in the New Zealand Church, but it was not supported with the same persistent scholarly attention as the Jesuit priest Frank Brennan, for example, provided in Australia. In New Zealand the Catholic scholars, the Marist priest Gerry Arbuckle, and lay people Richard Benton, Ruth Smithies and Justice Paul Temm have commented on the political implications of religious rights in ways that could be developed to provide a framework for intellectually informed religious activism. But their contributions to debate were isolated and not sufficiently voluminous to prevent

the formation of a vacuum that was filled by political activists ‘appropriating the Church’s authority’¹ for their own.

Beginnings of a New Religious Activism

The Australian religious activism which marked the 1980s and 1990s had its origin in the 1960s and 1970s. These earlier decades marked the point at which Church interest in Aboriginal concerns increased because of a changing political and theological climate. It was in this new political environment of greater diversity of opinion that the Australian Church responded to the Second Vatican Council’s strong emphasis on the presentation of religious values in the secular realm. The Church’s ‘habits of forgetfulness’ towards Aboriginals were challenged at this time because, as Prowse argues,

the influence of mining discoveries in Australia, the maturation and extension of international human rights declarations, the pastoral implications of the Vatican II council documents and post-Conciliar documents, the brief but positive greeting of Paul VI to the Aborigines in Sydney... raised the awareness of Aboriginal rights, especially land rights, in the Australian Catholic church.²

The Church paralleled the political events of the 1960s and 1970s with institutional and pastoral measures. In 1968 the Bishops’ Conference established the Catholic Commission for Justice and Peace. The Commission was created because of the Second Vatican Council’s requirement that local Churches pay greater attention to issues of justice and peace within their communities. The establishment of the organisation within the Church implied a renewed commitment towards promoting religious ideas when they were relevant to the politics of the ‘earthly city’. Because of the Church’s previous involvement in various political issues, including Ullathorne’s work to end the transportation of convicts, state aid to Catholic schools and the formation of the

¹ The Second Vatican Council, *Gaudium et Spes*, 43.

² Prowse, “Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion”.

Democratic Labor Party, such activism was not new to the Australian Church in the same way that it was new in New Zealand. In New Zealand only limited political agitation had emanated from the Church, largely on issues surrounding Irish nationalism and state aid to Catholic schools. In New Zealand there was a clerical tendency to understate the religious significance of political decisions and to draw a rigid line of demarcation between the political and religious. What was new for the Church in Australia however was, that for the first time since 1869, with Paul VI's encouragement, it would, at its highest institutional level, take an interest in Aboriginal affairs.

In 1969 the Australian bishops issued a pastoral letter *Peace in the World*. While the letter did not specifically address Aboriginal concerns, it made reference to general themes of relevance to Aboriginal people, and therefore represented a confirmation of the Church's growing interest in Aboriginal well being. The bishops observed that:

Peace is not merely the absence of war. It is an enterprise of justice, based on a determination to respect all men and their dignity.³

This broad theme is reflected in the Church's subsequent comments on Aboriginals, and demonstrates an ongoing response to the view expressed by the bishops in 1969 that in

so many parts of the world, people are today subject either to persecution, religious or racial, or to the horrors of war. We deplore this violence wherever it is to be found and remind our fellow citizens that it is peace which must guide the destinies of peoples and that the human community cannot accomplish its task of constructing for all men everywhere a better world unless each person devotes himself with renewed determination to the cause of peace.⁴

Paul VI's subsequent contribution to the increasing awareness of Aboriginal rights was also significant because it was an indication to Australia's Bishops that they end one hundred years of silence.

³ Australian Catholic Bishops' Conference, *Peace in the World*.

⁴ Ibid.

When Paul addressed Aboriginal and Torres Strait Islanders in Sydney in 1970, his comments were clearly antithetical to assimilation.

We know that you have a lifestyle proper to your own ethnic genius or culture – a culture which the Church respects and which she does not in any way ask you to renounce... Society itself is enriched by the presence of different cultural and ethnic elements.⁵

The bishops ended their public silence with a pastoral letter in August 1971, stressing

the importance of the efforts being made by churches, government departments and social welfare agencies to acknowledge and promote human rights and social progress for the Aboriginal people... So that the Aboriginal people may enjoy a standard of living in keeping with their dignity as Australian citizens and the Christian concept of man.⁶

In 1972 the Bishops were even more forthright.

It is as obvious as a tree on the Nullarbor that Aborigines have land rights... ownership, employment, housing, education and bargaining power are also paramount rights. This is the track to the human liberty and dignity which Australia owes her people.⁷

The 1972 statement demonstrated the Church's new understanding of the relationship between religious objectives and political means. Human liberty and dignity were the objectives, while the political goals of ownership, employment, housing, education and bargaining power were the means of achieving the Church's religious imperatives. Similar linking of religious objectives with political means occurred in New Zealand in the early 1970s. Gerry Arbuckle's focus away from the popular mythology of racial harmony, Brian Ashby's⁸ statement marking the Inauguration of the International Year Against Racial Discrimination and the Auckland Diocesan Pastoral Council's *Maori and Polynesian People in the Auckland Diocese* all reflected a connecting of the

⁵ Paul VI, "Speech to Indigenous Australians". Sydney, 1970.

⁶ Australian Catholic Bishops' Conference, "Racism".

⁷ Australian Catholic Bishops' Conference, "Aborigines".

⁸ Brian Ashby was Bishop of Christchurch from 1964 to 1985. He was the New Zealand Catholic Bishops' Episcopal Deputy for Justice and Peace.

Christological with the anthropological.⁹ Yet in both countries, public expression of the implications of these connections waited for the secular political process to place these issues on the political agenda as political aspirations before they were promoted as religious goals.

The Social Justice Sunday Statement 1978

In 1978 the Social Justice Sunday Statement *Aborigines: A Statement of Concern* was published to mark the centenary of the death of John Polding, Australia's first Roman Catholic Bishop. It was an explicit response to the Second Vatican Council's statement of the Christological implication of the human condition.

The joys and the hopes, the griefs and the anxieties of the men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ.¹⁰

The Statement noted the 'destruction of Aboriginal Society', a need to move 'beyond assimilation' and to 'recognise land rights',¹¹ and was endorsed by the Catholic Aboriginal senator Neville Bonner as 'the most graphic, authoritative summary of my people's culture that it has been my pleasure to read'.¹² Following the publication of the Statement *The Catholic Weekly* argued that it presented an 'immediate challenge' to the Catholic community and printed a headline 'Statement remains rhetoric unless Church backs words with action'. The article that followed was clearly intended to focus the social conscience of the Church through its reporting of the National Aboriginal and Islander Liberation Movement's 'scepticism' over the statement's 'nice words'.¹³ The Movement was blunt in its criticism of the Church and the unemotive forthright

⁹ These documents are discussed in Chapter Eight.

¹⁰ Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 3.

¹¹ *Ibid.*, 3.

¹² Neville Bonner, in *The Catholic Weekly*, Sydney, 24 September 1978, 2.

¹³ *Ibid.*, 2.

publication of that criticism suggested its acceptance by the paper. The Movement's General Secretary Naomi Mayers expressed the view that

because of early neglect and silence, they [the Church] share a responsibility for genocide: in fact they are more responsible than others, because Christians, above all, should and could have prevented the tragic injustices to which Aborigines were subjected, just as they should and can play a far more active role now.¹⁴

Mayers did however acknowledge the statement's recognition of land rights and white racism, but also noted that 'unless the Catholic Church is prepared to back up these words with action, the statement remains rhetoric'.¹⁵

The Australian Church arguably 'backed up' the *Social Justice Sunday Statement's* sentiments with 'action' by actively encouraging the development of reconciliation as an integral feature of Australian political discourse. Although for the Church reconciliation is a religious concept, its general principles have become important as possible foundations for political solutions.

John Paul II: Alice Springs 1986

At Alice Springs in 1986 John Paul addressed indigenous Australians. In his speech John Paul responded to many of the themes presented in the 'Petition to John Paul II from the World's Oldest Living Culture'.¹⁶ The petition was forthright and John Paul's response offered a clear indication that the Australian Church should continue what his address began and recognise the petition's direct request of the Pope.

On behalf of our ancestors and the children still to be born, we expect you to heed our call for reconciliation and justice.¹⁷

This expectation arose from the petitioners' belief that:

¹⁴ Naomi Mayers, in *The Catholic Weekly*, 24 September 1978, 5.

¹⁵ *Ibid.*, 2.

¹⁶ *Petition to John Paul II from the World's Oldest Living Culture, Recognition: The Way Forward*. North Blackburn, Victoria. Australian Catholic Social Justice Council, 1993.

¹⁷ *Ibid.*

Your Church has played a part in our dispossession and oppression. We struggle for recognition of our sovereignty and our basic rights as indigenous people. Your visit gives you the opportunity to add your voice to our 200 year struggle for peace and justice.¹⁸

While through its silence the Australian Catholic Church has played a role in the 'dispossession and oppression' of Aboriginals, it is also true that through the protection its missions afforded, the Church has also played a significant role in Aboriginal survival. Nevertheless, like his predecessor Paul VI, John Paul unequivocally added his voice to the Aboriginal 'struggle for peace and justice'. He stated that harm was done, and that its acknowledgement was a precondition of progress for indigenous peoples.

The establishment of a new society for Aboriginal people cannot go forward without just and mutually recognised agreements with regard to these human problems, even though their causes lie in the past.¹⁹

John Paul affirmed indigenous culture in a way that challenged assimilation.

Take heart from the fact that many of your languages are still spoken and that you still possess your ancient culture...Your 'Dreaming', which influences your lives so strongly that, no matter what happens, you remain forever people of your culture, is your own way of touching the mystery of God's Spirit in you and in creation.²⁰

Bjelke-Petersen attempted to respond in the Church's own terms, but succeeded only in demonstrating his ignorance of Catholic thought and disregard for indigenous cultures.

I am surprised that the Catholic Church encourages and supports rituals and practices that are quite contrary to the beliefs that it espouses and that are, according to the Bible, of no benefit or advantage in obtaining eternal life.²¹

Bjelke-Petersen's ridiculing of Aboriginal religious belief reflects a very different understanding of Christianity to that promulgated by the Catholic Church which 'rejects

¹⁸ Ibid.

¹⁹ John Paul II, "Address to Aboriginal and Torres Strait Islanders", 70.

²⁰ Ibid., 65.

²¹ Bjelke-Petersen in Attlee, "Christianity and Aboriginal Culture", 130-131.

nothing of what is true and holy' in the non-Christian religions, but instead argues that Catholics should

recognise, preserve and promote for the good spiritual and moral - as well as socio-cultural - values that they find in their midst.²²

John Paul's attention to land rights attracted particular public interest. The Pope said:

From the earliest times men like Archbishop Polding of Sydney opposed the legal fiction adopted by European settlers that this land was terra nullius – nobody's country. He strongly pleaded for the rights of the Aboriginal inhabitants to keep the traditional lands on which their whole society depended. The Church still supports you today...

Let it not be said that the fair and equitable recognition of Aboriginal rights to land is discrimination. To call for the acknowledgement of the land rights of people who have never surrendered those rights is not discrimination.²³

The *Sunday Territorian*²⁴ responded to John Paul's speech at Alice Springs with a pronounced tone of conservative reaction.

Pope John Paul II entered Australian politics yesterday with a thump that will reverberate across the nation. For many people, his demand for immediate national land rights - one of the most sensitive issues confronting Australians - will have destroyed in one day the enormous good will generated by a warm and intelligent Pope, a man of the people who came to unite and has ended creating further division and racial tension.²⁵

If John Paul contributed to division and racial tension by asking Australia to recognise basic religious and economic rights, then he was perhaps providing a context for the expression of an existing deep-seated disregard for indigenous existence. The *Sunday Territorian*'s plan for a 'united' Australia was assimilation, which it argued stood in contrast with the Pope's

²² Paul VI, *Nostra Aetate Declaration on the Relation of the Church to Non-Christian Religions* (Vatican City, 1965: 2 [cited 28 January 2003]); available from <http://www.ewtn.com/library/COUNCILS/V2NON.HTM>.

²³ John Paul II, "Address to Aboriginal and Torres Strait Islanders", 69.

²⁴ The *Sunday Territorian* is a weekly secular publication in the Northern Territory.

²⁵ *Sunday Territorian*, 30 November 1986.

Marxist theory at its best which emphasised class struggle at the expense of accommodation, and social division at the expense of assimilation.²⁶

This remark is important in spite of its ignorance of Marxism, ignorance of John Paul's position on Marxism,²⁷ and disregard for the destructive impact of earlier assimilation policies on indigenous Australians. The *Sunday Territorian* is a mainstream newspaper, its editorial policy arguably reflective of what a sizeable portion of its readership wishes to read. Yet the paper expressed itself in the language of a reactionary fringe, which is in turn demonstrative of the barriers to reconciliation between black and white Australians. Its tone of theological and political misinformation continued:

Australia does not need liberation theology. This country is not yet Nicaragua much as some radical left-wingers in the Catholic hierarchy would wish us to be. In their pursuit of social causes, any cause will do, so long as tortured consciences are satisfied. This is no Christianity at all.²⁸

As explained in Chapter Three, satisfaction of conscience is central to Catholic moral theology. For the Pope, reconciliation, but not marginalisation and exclusion satisfies conscience. The interpretation of liberation theology acceptable to John Paul is different to that of the 'radical left' within the Nicaraguan Church.²⁹ The *Sunday Territorian* responded to theological ideas as though they were purely political. But John Paul's starting point was religious, therefore he could retain religious authenticity in the face of political criticism and thus avoid manipulation in to the adoption of a partisan political position so that the Church could remain an 'instrument of reconciliation'.

Reconciliation gained momentum during the 1990s with a substantial volume of support from the Church, including John Paul's acceptance of the Aboriginal request to 'heed our

²⁶ Ibid.

²⁷ John Paul's criticisms of Marxism were discussed in Chapter Two.

²⁸ The *Sunday Territorian*.

²⁹ The Holy See's assessment of liberation theology under John Paul's pontificate was discussed in Chapter Two.

call for reconciliation and justice'.³⁰ Yet a pluralist, federalist, parliamentary democracy and the general notion of reconciliation do not easily sit alongside one another. Reconciliation resolves conflict through unqualified acknowledgement of wrongdoing, acceptance of that acknowledgement by the aggrieved, and the determination to both cease wrongdoing and address its consequences. Yet the theological objective of reconciliation has become the overarching theme connecting the Church's interest in different facets of Aboriginal well being.

Reconciliation and the Synod of Bishops for Oceania

The Synod of Bishops for Oceania was one of a number of regional assemblies of bishops called by John Paul II 'to prepare the Church for the new millennium'.³¹ The Synod, which met during 1998 and 1999 considered the general relationship of reconciliation to the political system's response to indigenous grievances. The Synod's *Instrumentum Laboris*³² also affirmed the Australasian Churches pursuing of reconciliation.

Reconciliation between indigenous peoples and the descendants of colonising settlers is required in many countries and that the Church has the right and the will to contribute to this process. National reconciliation is an indispensable condition for internal peace and real progress.³³

The claiming of a 'right and a will' to contribute to the process of reconciliation logically follows from John Paul's comments to the New Zealand Bishops' Conference that a

³⁰ *Petition to John Paul II from the World's Oldest Living Culture*, 7.

³¹ John Paul II, *Ecclesia in Oceania*, 2.

³² A Synod of Bishops and its *Instrumentum Laboris* is explained in Chapter One, footnotes 78 and 79.

³³ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 17.

bishop's teaching office 'constitutes an important factor in the formation of public opinion'.³⁴ John Paul also told the New Zealand bishops that:

It is an act of justice towards society to speak the Church's teaching with sureness and clarity....³⁵

The modern Australian and New Zealand Churches draw on a number of documents to advance self-determination, which pre-date the growing political acceptability of the notion. This promotion is actively endorsed by the Holy See, which further advances the argument that the beliefs of earlier generations of Church leaders were politically and not theologically motivated. The Holy See itself also draws on ideas developed before the Second Vatican Council, and before self-determination became more readily accepted in the political community to support its advancement, which further suggests that recent changes have been changes in approach and interpretation not changes in teaching.

The hierarchy's concern for indigenous land rights, not just in Australia and New Zealand but throughout the Pacific region, was evident in various bishops' comments reported in the *Instrumentum Laboris*. The document indicated that by the end of the twentieth century the experience of indigenous peoples had become the concern of a much wider group within the Church than just the occasional individual who had worked or spoken out on behalf of indigenous peoples before the second Vatican Council.

The view that a Church promotion of reconciliation contributes to the well being of

³⁴ John Paul II, "Meeting with New Zealand Bishops", 29.

³⁵ Ibid., 29.

society was implied through the *Instrumentum Laboris* itself expressing reconciliation.

In the past, some Christians in Oceania have... shared responsibility for political and social injustices. Not only individual Christians but also church leaders have committed errors, approved un-Christian actions or been passive before injustices.³⁶

Acknowledgement of wrongdoing should still however be objective, and does not mean that the significance of the Church's positive contributions to indigenous peoples should be downplayed. There are numerous examples of missionaries who carried out their work 'in exemplary ways'³⁷ and Durning's comment about New Zealand applies equally to Australia.

Some of the more vocal Maoris today will... speak of the colonial church, as a part of imperial policy. I think we should be far more vocal in refuting this cheap propaganda. The missions... contributed a glorious page to New Zealand history.³⁸

However, with those who contributed a 'glorious page' as an example, ignorance, rather than invincible ignorance, might better explain the acts of those who 'approved un-Christian actions'.

The *Instrumentum Laboris* noted that in Australia and New Zealand, as well as in New Caledonia and Fiji:

The original indigenous population has to cope with the effects of large-scale immigration from colonial times. In some places, the indigenous population has become an ethnic minority, leading them sometimes to feel disenfranchised because of a lack of respect for their identity and development. They look upon other ethnic groups of European and Asian descent as more wealthy, privileged and powerful. The political and economic problems of these indigenous communities reflect the tensions between the ethnic groups. They revealed the historical injustice that was perpetrated and whose wounds remain to this day.³⁹

³⁶ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 4.

³⁷ Ibid., 4.

³⁸ Durning, "Treaty of Waitangi Discussion", 5. MAW, ACC202.

³⁹ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 17.

The *Instrumentum Laboris* also affirmed the belief that the Church should contribute to the addressing of injustice towards indigenous peoples because

in some countries there is need of national reconciliation between the descendants of people on opposite sides of the conflict. The Church has the right and the will to contribute to this process.⁴⁰

Furthermore:

National reconciliation is an indispensable condition for internal peace and real progress. There is a place for repentance and forgiveness without undermining the sense of justice. Above all, the Church believes in the power of God's Spirit, the bearer of peace, reaching farther and deeper than all human efforts.⁴¹

For the Holy See reconciliation requires governmental pursuit of measures to improve the living conditions and standard of living of indigenous peoples.⁴² But it also requires that the Church's social teaching

be taught and implemented still more effectively in Oceania... This social teaching is to be clearly presented to the faithful in easily understandable terms.⁴³

It was in this context that John Paul 'clearly presented' the view that 'it is the Church's task to help indigenous cultures preserve their identities and maintain their traditions'.⁴⁴

This, John Paul said, is particularly important for the Church because past and present injustices towards Aboriginal and Torres Strait Islander peoples added to the importance of the Church's relationship to them. John Paul's comments were made within the context of his acknowledgement that the Church itself had contributed to injustice.

The Church expresses deep regret and asks forgiveness where her children have been or still are party to these wrongs. Aware of the shameful injustices done to indigenous peoples in Oceania, the Synod Fathers apologized unreservedly for the

⁴⁰ Ibid., 19.

⁴¹ Ibid., 17.

⁴² John Paul II, *Ecclesia in Oceania*, 28.

⁴³ Ibid., 26.

⁴⁴ Ibid., 28.

part played in these by members of the Church, especially where children were forcibly separated from their families.⁴⁵

The Australian and New Zealand Churches can draw even stronger endorsement for their increasing tendency towards public expression of religious goals from John Paul's instruction that 'a secularised society needs to be confronted again by the entire Gospel of salvation in Jesus Christ'.⁴⁶ John Paul seemingly emphasised this point for fear that religion, and Christianity in particular has been pushed to the margins of public interest 'to be regarded as a strictly private matter... with little relevance to public life'.⁴⁷ His conclusion however, that as a result the Church has a 'diminished voice in public affairs'⁴⁸ is not supported by the fact that at the present time, at least in the area of the rights of indigenous peoples, the Church has taken advantage of a political environment in both Australia and New Zealand that is more conducive to the expression of its ideas than has been the case at any time in its history in either country. While religious principle may not strongly influence the day-to-day decision making of political actors this is not necessarily a new phenomenon, nor has there ever been a time in either Australia or New Zealand where religious values relating to political issues for indigenous peoples had any more influence in the secular realm than is the case at the present time. Instead it is precisely because the body politic has created space for the expression of the Church's ideals that the Church has been able to give practical effect to its post-Second Vatican Council emphasis on presenting religious arguments in the political realm. So, at least in the case of the rights it believes belong to indigenous peoples, the fear that the Church

⁴⁵ John Paul II, *Ecclesia in Oceania*, 28.

⁴⁶ *Ibid.*, 6.

⁴⁷ *Ibid.*, 7.

⁴⁸ *Ibid.*, 7.

might allow ‘her voice to be silenced or her witness to be marginalised’⁴⁹ is not well-founded. Instead the Holy See might consider that while ‘greater knowledge of human nature and behaviour... pose[s] new and difficult questions for the peoples of Oceania’,⁵⁰ it is also that greater knowledge of human nature that has challenged hostility or indifference towards indigenous peoples and aided the creation of a political environment in which secular and religious concerns for respecting the humanity of people of whatever race, have converged..

Political Barriers to Reconciliation

Reconciliation has been continuously challenged by the adoption of extreme emotive rhetoric by political and sectoral interests who would apparently see the fringes of society as the proper place for indigenous Australians. For example, in Western Australia the Burke Government’s (1983-1988) *Aboriginal Land Bill* was defeated in the Legislative Council, even though it had widespread public and Church support.⁵¹ The Opposition Leader claimed that he could not find a ‘practical Churchman’ in support of the government’s legislation and that ‘if you feed the crocodile, eventually you get your fingers bitten off’.⁵²

In the same year in Queensland the Bjelke Petersen government (1968-1987) introduced legislation intended to entrench the marginalization of the ‘crocodile’, rather than to encourage reconciliation between black and white Australia. The *Queensland Coast Islands Declaratory Act 1985* was a response to the *Mabo* litigation. The Act was intended to ‘allay doubts that may exist concerning certain islands that form part of

⁴⁹ Ibid., 7.

⁵⁰ Ibid., 7.

⁵¹ Frank Brennan, “Land Rights in 1985 and Beyond”, *Nelen Yubu*, no. 26. 1986, 15.

⁵² Quoted in “Land Rights in 1985 and Beyond”, *Nelen Yubu*, no. 26, 1986, 15.

Queensland'. That was effectively to annex retrospectively the Torres Strait Islands that were the subject of Mabo's claim in such a way that

no compensation was or is payable to any person in respect of any right interest or claim alleged to have existed prior to the annexation of the islands... or in respect of any right, interest or claim alleged to derive from such a right, interest or claim.⁵³

For Brennan this legislation contributed nothing to the resolution of injustice towards Torres Strait Islanders.⁵⁴ Indeed the legislation's intent was to obstruct the prevailing of justice. Justice and reconciliation as the Church envisaged was consequently impossible under a government which claimed to believe in 'equal rights - not land rights'.⁵⁵ For the Church there cannot be equal rights, therefore reconciliation, without land rights because for indigenous Australians land rights are the very basis of identity, culture, religion and development. Bjelke-Petersen's description of land rights as a 'land grab' stands in marked contrast with the established magisterium of the Catholic Church. For while the Church approaches land rights from a religious perspective, it is not taking a partisan pro-Aboriginal, anti-white position. Yet, the description of land rights as a 'land grab' and the suggestion that:

Yesterday it was Ayers Rock, today it is the Katherine Gorge. Tomorrow, what's tomorrow? Darwin? It won't stop unless we stop it⁵⁶

is decidedly anti-Aboriginal, but not consequently pro white. It is not pro white because it is not in the interests of white Australians to continue to live on the 'Eurocentric jurisprudence of convenience' that marginalised black Australians in 1788. It is not in the interests of white Australians to allow that marginalisation and alienation to continue and to contemplate the continuance of a nation unreconciled. It is to help them avoid the

⁵³ W Gunn, In *Queensland Parliamentary Debates*, 2 April 1985, 4741.

⁵⁴ Brennan, "Land Rights in 1985 and Beyond", 16.

⁵⁵ Ibid., 16.

⁵⁶ Ibid., 16.

status of 'diminished nation',⁵⁷ not to create a 'nation within a nation'⁵⁸ with a black nation usurping the interests of a white nation, that the Church properly involves itself in the promotion of reconciliation.

In 1993 the Church signed a Council of Churches statement to the federal caucus of the Australian Labor Party expressing concern that elements of the government's *Native Title Bill 1993* would damage the prospects of reconciliation. The Churches were

worried that Cabinet is only hearing from economic interest groups and... there is a very real risk, that if the interests of industry lobbyists carried today, Australia's human rights standing will be badly damaged overseas.⁵⁹

Four years later the Australian Catholic Bishops' Conference issued a pastoral letter *The Coming of the Third Millennium*. The bishops argued that the forthcoming two thousandth jubilee of the birth of Christ made reconciliation particularly urgent for the Church. The anniversary could not be celebrated 'with any authenticity if we are not reconciled with one another'. The bishops' letter also acknowledged that the Church itself needed to reconcile itself with indigenous Australia

... in order to celebrate a Jubilee, the Church is called to look back on this last millennium and see where it may have failed in its fidelity to Jesus Christ...⁶⁰

Cornish has taken a similar position in suggesting that the Church might usefully

⁵⁷ William Deane, *Australia Day 1998 Address by Sir William Deane Governor-General of the Commonwealth of Australia* ([cited 1 July 2003]); available from <http://www.gg.gov.au/speeches/textonly/speeches/1998/980126.html>.

⁵⁸ Bjelke-Petersen in Brennan, "Land Rights in 1985 and Beyond", 16.

⁵⁹ Australian Council of Churches, "Don't Blow It: Churches Urge Caucus", Media Release, 13 October 1993, 1.

⁶⁰ Australian Catholic Bishops' Conference, "The Coming of the Third Millennium", Pastoral Letter, Canberra, 1997, 1.

contribute to reconciliation

through a public examination of its own conscience as a necessary first step towards a conversion to justice on which true relationships of solidarity might be built.⁶¹

In adopting this approach the Church would fulfil its self-imposed duty to lead by example, as well as enhance the credibility of its position in public debate, allowing it to form alliances of common aspiration in pursuit of reconciliation. For example Michael Malone, Bishop of Maitland-Newcastle, shared his religious interest in Aboriginal affairs with a number of secular leaders with whom he jointly signed *The City of Newcastle Today and Tomorrow: a Statement of Direction*. While the statement did not specifically mention reconciliation or Aboriginal people, the principles of respect for all, and respect for diversity which inform both reconciliation and Malone's attitude towards Aboriginals, were evident:

As a city we affirm that... diversity has contributed to the vital and positive lifestyle which is enjoyed by everyone in our region... we are committed... to develop a framework for relating to each other and that is marked by a strong sense of cohesion and mutual respect for our differences.⁶²

Reconciliation and the Bicentenary

In a letter to the Prime Minister, Bob Hawke, in 1985 the bishops expressed the ambitious hope that

by the time of this nation's bicentenary there will not be any Aboriginal persons whose aspirations to land or other needs remain unaddressed.⁶³

⁶¹ Sandie Cornish, *The Catholic Human Rights Tradition and the Rights of Indigenous Peoples*. North Blackburn, Victoria: Collins Dove, 1994, 32.

⁶² "The City of Newcastle. Today and Tomorrow: A Statement of Direction", Newcastle, 26 May 1997.

⁶³ Australian Catholic Bishops' Conference, "Letter to the Prime Minister", Canberrra, 20 May 1985.

This aspiration had not been achieved by the time of the bicentenary, in 1988 when Edward Clancy,⁶⁴ Archbishop of Sydney, reaffirmed the Church's position by signing a joint statement *Towards Reconciliation*. This letter to Hawke foreshadowed some of the issues that have become central to reconciliation. It expressed concern at the intolerance of some white Australians towards the Aboriginal condition, and asked that Aboriginal land owners be given at least the same protection from mining without their consent as other land owners.⁶⁵ This is a protection that in spite of its rhetoric about the same law for all Australians, Pauline Hanson's One Nation Party, has sought to deny Aboriginal landowners.

The bishops also asked that consideration be given to traditional Aboriginal communities and traditional lifestyles when making decisions about permitting mining on Aboriginal land. In order that the common good not be compromised, the bishops said that the meeting of Aboriginal aspirations should be achieved to the greatest possible extent 'without occasioning injustice to other citizens'.⁶⁶ The Church's later responses to Howard's Ten Point Plan for Native Title were dismissed by those who considered that having to make compromises, having to acknowledge Aboriginal concerns, and having to work and share with them, constituted an injustice to white people.

The National Assembly of Major Superiors of the Religious of Australia⁶⁷ expressed similar sentiments in *A Call to the Prime Minister*.

We ask your government, in co-operation with the states, to meet the needs and legitimate aspirations of Aboriginals and Torres Strait Islanders for security of

⁶⁴ Edward Clancy was Archbishop of Canberra from 1978 until 1983, and Archbishop of Sydney from 1983 until 2001. He was created cardinal in 1988.

⁶⁵ Australian Catholic Bishops' Conference, "Letter to the Prime Minister".

⁶⁶ Ibid.

⁶⁷ The National Assembly of Major Superiors of the Religious of Australia is a body comprising the leaders of Australian Catholic religious orders.

tenure over their lands and self management and self determination of their communities. We ask that this national responsibility be discharged before the nation's bicentenary.⁶⁸

Subsequent events demonstrate that the Major Superiors were being unduly optimistic in suggesting that the responsibility be discharged before the bicentenary of the arrival of the First Fleet in 1988, and explain Patrick Dodson's observation that: 'We cannot join in the bicentenary party that is grounded on the original sin, the theft of our lands'. Dodson continued in a tone of reconciliation that markedly contrasted with the tone of white pastoral and conservative political interests that were to become prominent during native title debates in the 1990s.

If there is to be reconciliation and restitution, justice demands this be done through a recognition of our unceded and unextinguished rights. This does not mean others do not have rights, but theirs can no longer be asserted as absolute, moral and binding. A partnership based upon the utmost good faith, principles that will be honoured and rights that are enforceable must be found.⁶⁹

In August 1988 the federal parliament met for the first time in the new Parliament House. Symbolically the first item of parliamentary business, which the Jesuit lawyer Frank Brennan negotiated between government and opposition, was one of acknowledgement and affirmation of indigenous peoples and a step towards reconciliation. The motion drafted by Brennan⁷⁰ was passed in both Houses of Parliament and read that:

Parliament

(1) acknowledges that:

Australia was occupied by Aborigines and Torres Strait Islanders who had settled for thousands of years before British settlement at Sydney Cove on 26 January 1788;

⁶⁸ The Major Superiors of the Religious of Australia, "A Call to the Prime Minister", 1986.

⁶⁹ Pat Dodson, "Where Are We, after 200 Years of Colonisation?", *Land Rights News* 1988, 5.

⁷⁰ Matheson, "The Catholic Church and Aboriginal Land Rights", 98.

Aborigines and Torres Strait Islanders suffered disposition and dispersal upon acquisition of their traditional lands by the British Crown; and

Aborigines and Torres Strait Islanders were denied full citizenship rights of the Commonwealth of Australia prior to the 1967 Referendum.

(2) affirms:

the importance of Aboriginal and Torres Strait Islander culture and heritage; and the entitlement of Aborigines and Torres Strait Islanders to self-management and self-determination subject to the Constitution and the laws of the Commonwealth of Australia; and

(3) considers it desirable that the Commonwealth further promote reconciliation with Aboriginal and Torres Strait Islander citizens providing recognition of their special place in the Commonwealth Australia.⁷¹

Matheson has argued that

there is something powerfully symbolic in the fact that, whereas the first resolution of the first Federal Parliament in 1901 was a racist Act to preserve a “White Australia”, the first Act in the New Parliament House in the bicentennial year was an Act of reconciliation with the Aboriginal and Torres Strait Islander people principally urged by the Churches. And the person most responsible was the Adviser to the Australian Episcopal Conference.⁷²

Brennan’s influence was not universally welcomed. In 1997 Christopher Pearson, a former speech writer in John Howard’s office, told the *Australian Financial Review* that:

Parliamentarians aside, Fr Frank Brennan seems to have been the individual most responsible for lumbering the body politic with reconciliation as a shibboleth.⁷³

As Brennan explained, the comment about a ‘shibboleth’ refers to the Book of Judges story in which the Ephraimites were forced to identify themselves to the Gileads with whom they were at war by being asked to pronounce the word ‘Shibboleth’ as they attempted to cross the Jordan River. When the word was mispronounced ‘Sibboleth’ the Ephraimites gave themselves away and were slaughtered. They

⁷¹ *Commonwealth Parliamentary Debates (H)*, 23 August 1988, 137.

⁷² Matheson, “The Catholic Church and Aboriginal Land Rights”, 98-99.

⁷³ Christopher Pearson quoted in Frank Brennan, “Reconciling Our Differences”, in *Essays on Australian Reconciliation*, ed. Michelle Grattan. Melbourne. Bookman Press Pty Ltd, 2000, 28.

perished by failing this test of pronunciation. In recent times, the Australian test has been saying the word, 'sorry'.⁷⁴

That the person most responsible was a priest and advisor to the Australian Catholic Bishops' Conference draws attention to the attitude of other Churches and religious communities towards reconciliation. Several have joined with the Catholic Church in advocating reconciliation both alone and in conjunction with one another, as 'Faith Communities for Reconciliation'.⁷⁵ The Anglican Church has explained that:

Reconciliation is a theme running through each of our Faiths. It is not hard to understand. It is part of the stuff of our living with one another.⁷⁶

Brennan's central role in placing reconciliation on the political agenda also draws attention to the proper relationship between the Church and the political realm. On the one hand there is a requirement to avoid a partisan political position on issues on which there might properly be a diversity of Catholic opinion, while at the same time there is a need to avoid caution to the extent that the Church becomes impotent in the expression of its ideals. In New Zealand the views of bishops Denis Browne,⁷⁷ Godfried Daneels⁷⁸ and Basil Meeking,⁷⁹ discussed in the next Chapter, illustrate that there need not be a tension between this former approach, which was prominent among New Zealand Catholic

⁷⁴ Ibid.

⁷⁵ The Faith Communities for Reconciliation are The Anglican Church of Australia, Australian Federation of Islamic Councils, Baptist Union of Australia, Buddhist Community in Australia, Churches of Christ, Executive Council of Australian Jewry, Greek Orthodox Archdiocese of Australia, Hindu Community in Australia, Liberal Catholic Church, Lutheran Church of Australia, Religious Society of Friends, Roman Catholic Church, Spiritual Assemblies of the Baha'i, The Salvation Army, Seventh-day Adventist Church, Uniting Church of Australia, National Council of Churches in Australia, World Conference on Religion and Peace.

⁷⁶ Anglican Church of Australia, *The Week of Prayer for Reconciliation 27 May - 3 June 2003. Reconciliation - It's Not Hard to Understand* (The National Church Office: [cited 25 May 2003]); available from http://www.anglican.org.au/nconews/index_RecWeek.htm.

⁷⁷ Denis Browne was Bishop of the Cook Islands and Niue before becoming Bishop of Auckland in 1983. He became Bishop of Hamilton in 1994 and is Vice President of the New Zealand Catholic Bishops' Conference. Under his vice-presidency the Conference has shown a particular interest in Maori aspirations.

⁷⁸ Godfried Daneels became Archbishop of Brussels in 1979 and was created cardinal in 1983. He is a former professor of theology at the Catholic University of Louvain.

⁷⁹ Basil Meeking was Bishop of Christchurch from 1987 to 1996.

political activists during the 1980s and 1990s and the latter silence which describes earlier Catholic approaches to State abuse of Maori interests. There need not be a tension because neither option is tenable in a Catholic context. All three bishops have separately identified the same proper Catholic understanding of the relationship between religious goals and political means.

Even if Brennan's motivation was exclusively religious, his religious convictions were inescapably expressed within a highly charged political context with significant political implication. This has the potential to lead those unsympathetic to indigenous interests to challenge the Church's legitimacy as a political actor. However, there are points that legitimise this kind of political participation by distinguishing it from that which takes its primary objective as the pursuit of a secular political preference. Firstly, point 1 of the parliamentary motion Brennan drafted contained only statements of well established fact. They are facts that have significant political bearings, but they are facts nevertheless, not politically motivated interpretations of history or attempts at solutions through political prescription. Point 2, while clearly political in implementation, retains a core religious objective of the right to cultural preservation and to self-determination to the greatest extent possible. Point 3 argues for the promotion of the religious goal of reconciliation. Although reconciliation has become an entrenched part of the Australian political agenda, the Church's interest is religious and generally speaking subsequently been expressed in specifically religious language in a manner free of emotionally charged political rhetoric. This contrasts with the New Zealand context where the foundation for intellectually informed religious contributions in the public sphere was laid by Gerry Arbuckle, but not

systematically and comprehensively developed over more than a decade as Frank Brennan continues to do in Australia.

The motion put to the Parliament was a compromise to satisfy the Opposition Liberal Party and National Party Coalition. The Opposition's objection was influenced by political pressure rather than by ideology alone. The presence of 1000 protesters at the opening of the new Parliament House in 1988 was followed by a statement from Chris Miles, Liberal Party spokesperson on Aboriginal Affairs:

Because of negative community response to radical Aboriginal protests, the Coalition has decided not to proceed with initiating a parliamentary resolution on Aboriginal matters. We do not believe that it would be positively received in the community and hence would fail to promote reconciliation as we had hoped.⁸⁰

Reconciliation requires political leadership. The Coalition's position however reflected a negative following of reactionary thought, which was added to by Miles himself with the inflammatory remark that the Aboriginal protests

had led the general Australian community to see the Aboriginal people as not being interested in good relations with non-Aboriginals.⁸¹

The weakness of Miles' position is clear. Australia is a nation which recognises protest as a legitimate form of political expression. Therefore the taking of one instance of protest by 1000 people, both Aboriginal and non-Aboriginal, as an indicator of a lack of Aboriginal interest in good relations with white Australia is simplistic and incompatible with any notion of reconciliation. Aboriginal Australians are not in a position to be uninterested in good relations with non-Aboriginal Australians. It was the 200 year history of poor relations that has left indigenous Australians marginalised and dispossessed. For the Church better relations, made possible through reconciliation is a

⁸⁰ Chris Miles, Canberra, Media Release, 19 May 1988, 1.

⁸¹ Ibid.

central goal of its religious mission and a justification for Frank Brennan's preferred parliamentary resolution.

On behalf of the Church Brennan rejected the Coalition's condition of support which was to qualify recognition of the indigenous right to self-determination 'subject to the Constitution and the laws of the Commonwealth' by adding the words 'in common with all other Australians'.⁸²

Brennan's rejection was on the basis that

the entitlement of self-determination and self-management is not an individual right but a collective entitlement of discrete Aboriginal and Islander communities with their own culture, language, and ethos to choose between their traditional lifestyle and that of most other Australians.⁸³

A limitation of the right of either individuals or communities to choose between their traditional lifestyle and the lifestyle of mainstream Australia limits the right to development, to identity, to language and to culture. From the Coalition's perspective these are political rights made dispensable by the political climate. But for the Church, these rights are inviolable religious rights.

John Howard, Leader of the Liberal Party said that:

We are concerned that the motion in its present form... can create the perception of separate development and the impression of divisions in the Australian community.⁸⁴

This remark reflects the antithesis of Catholic thought. It is also a cloak for racism. Separate development of minority groups is the opposite of assimilation. It was not separate development that created division it was assimilation. Assimilation fosters division because its very starting point is the use of law and policy to cause the

⁸² Frank Brennan, "Waiting for the Resolution", *The Australasian Catholic Record* 64, no. 4, 1989: 476-477.

⁸³ Ibid., 476.

⁸⁴ John Howard, in *Commonwealth Parliamentary Debates (H)*, 23 August 1988.

disappearance of minority cultures. A society 'united' because it has removed ethnic difference has rejected the foundational claim in Catholic thought that all people are created by God in his own image and likeness. All people were created with an ethnic identity. From a Catholic point of view therefore a society united by an enforced removal of diversity is a society divided from the primary assumption of human creation.

The debate over the first resolution put in the new Parliament House presented Australia with two options. Howard's stated preferred option would lead to a nation in which black would be divided from white through the denial of the opportunity to black Australians to develop for themselves a better way of life and higher standard of living. For Brennan, on behalf of the Catholic Church, the legitimacy of black Australians living in a fashion determined by themselves, was a better alternative. A symbol of genuine movement towards reconciliation would arise if the aspiration Brennan expressed were realised.

Looking to the future; I have a dream... I dream that an equivalent motion be moved by an Aboriginal Member of the Government, seconded by an Aboriginal Member of the Opposition and carried without rancour or fear by those committed to equal treatment and equal opportunity within the framework of a just and tolerant society.⁸⁵

Yet instead the government's compromise solution to the issues left outstanding by the High Court's *Wik* judgement, the *Native Title Amendment Act 1998* was enacted after the longest ever Senate debate and with significant comment from the Church, but 'without a single indigenous Australian sitting here [in the Senate] with a voice and a vote'.⁸⁶

Frank Brennan's involvement in the negotiations surrounding the *Native Title Amendment Act 1998* was considerable and influential. However, the wider Church's

⁸⁵ Brennan, "Waiting for the Resolution", 480.

⁸⁶ Nick Bolkus, *Federal Parliamentary Debates*, 5 November 1997 ([cited 31 January 2002]); available from <http://www.austlii.edu.au/au/other/IndigLRes/1998/2/cth.html>.

interest in native title, and its observation of slow progress towards the goal of land rights, was also significant. In 1986 the bishops expressed surprise

that the Commonwealth government's promises to Aboriginals and consultations with community representatives have come to nothing.⁸⁷

From the perspective of Edward Clancy, Archbishop of Sydney, a bleak analysis of the Aboriginal condition and the nature of Aboriginal/white relations remained justified by the time of the bicentennial. A joint statement with the leaders of other churches, *Towards Reconciliation in Australian Society* commented that:

We are said to have been living together for two hundred years. Yet ignorance, prejudice and discrimination have divided us. In these two hundred years, many aborigines have lost life, land, language, culture and dignity. Many European Australians have never met or known Aboriginal Australians... we Australians, Aboriginal and not, can not be reconciled until we know each other, appreciate each other, our cultures and our perspectives on life. We must acknowledge and own our past, even the injustices... aborigines need an ensured, empowered place in our public life.⁸⁸

One of the reasons that Australia's indigenous peoples' 'empowered place' in public life is in relative terms less significant than that which applies to Maori in New Zealand is that New Zealand recognises that the right to participation in decision-making can be expressed through specific and guaranteed representation in parliament for example. Guaranteed parliamentary representation is an opportunity for collective expression that Maori have enjoyed since 1867, although in 2003 its legitimacy is being challenged by the National Party⁸⁹ and thus threatening the bi-partisan recognition of the desirability of ensuring a Maori voice in Parliament.⁹⁰

⁸⁷ Australian Catholic Bishops' Conference, "Land Rights", Media Release, Canberra, 5 March 1986, 1.

⁸⁸ Australian Church Leaders Joint Statement, "Towards Reconciliation in Australian Society", 1988.

⁸⁹ Bill English, *Unity and Development Are Better Than Division and Dependency* Speech to the New Zealand National Party, 22 January 2003: [cited 24 February 2003]; available from <http://www.national.org.nz/wcontent.asp?PageID=100013485>, English

⁹⁰ This issue is discussed more fully in Chapter Eight.

The Joint Statement refuted the argument more recently advanced by Pauline Hanson that acknowledgement of any particular rights of Aboriginal peoples would racially divide the Australian community. If Australia is racially divided it is because Aboriginals do not have an ‘empowered place’ in society. They are excluded from mainstream white society, while at the same time denied access to the basic foundations of their own cultures. It is too simple to imply that a society in which Aboriginals exist on the fringes is united and that policies aimed at restoring traditional cultures will divide it. Instead the Church leaders’ position that ‘reconciled, we can answer the longing of all to belong’⁹¹ is a more likely foundation for positive development. As Arbuckle explained, with reference to Maori in 1970, the realisation of human dignity requires access to the necessary economic, social and educational conditions as a ‘demand of justice.’⁹²

Reconciliation and Native Title

The political system resolves conflict through the exercise of power. In a system like Australia’s, power is dispersed among Commonwealth and state and territory legislatures, between each House in bicameral parliaments and between parties in the Houses. Reconciliation, on the other hand, resolves conflict through unqualified acknowledgement of wrongdoing, acceptance of that acknowledgement by the aggrieved and the determination to both cease wrongdoing and address its consequences. When the bishops commented on native title as an opportunity for reconciliation after the *Mabo* judgement in 1993, they counselled caution against the impediments that the need for the political realisation of reconciliation generated.

The issues raised by the *Mabo* judgement are of national importance and go beyond issues of federal and states’ rights... our national and state leaders bear a particular

⁹¹ Australian Church Leaders Joint Statement, “Towards Reconciliation in Australian Society”.

⁹² Gerry Arbuckle, “The Maori in Crisis”, Unpublished Paper. ACDA. DEL 53 1/1, 1970, 10.

responsibility to promote reconciliation... the High Court judgement on native title should not be a cause of division and racial disharmony. It should not be a source of political point scoring.⁹³

While Brennan was the most vocal, and arguably the most influential Church participant in the post-*Wik* native title debate, the Church as a whole showed an unprecedented level of interest in what was one of the most tense and controversial political debates in recent Australian history. It was a debate that the Bishops' Conference suggested be resolved to ensure the protection of native title and security for pastoralists 'through mature dialogue and goodwill'⁹⁴ That the bishops saw a need publicly to call for 'mature dialogue' indicates that they did not consider it already present in the attempts to resolve native title. The statement was a reflection of the Howard Government's continuance of the tradition of white governments making decisions for and about indigenous peoples without considered regard to the views, aspirations and requirements of indigenous communities. Certainly their input was not sought to the same extent as the input of pastoralists and miners.

Among the Catholic submissioners to the Joint Parliamentary Committee considering the *Native Title Amendment Bill 1997* was Kevin Dance, on behalf of the religious of Australia.

We want to comment in this debate... because we try to follow the Gospel in our lives and we try to follow the vision of Jesus Christ ... as religious men and women we see ourselves as having a responsibility to our fellow citizens, to work for and support decisions which help to create a more just and compassionate society.⁹⁵

⁹³ Australian Catholic Bishops' Conference, "Native Title: An Opportunity for Reconciliation", Canberra, Media Statement, 3 December 1993, 1.

⁹⁴ Australian Catholic Bishops' Conference, "Bishops Urge Prayers for Parliamentarians", Canberra, Media Release", 28 November 1997, 1.

⁹⁵ Kevin Dance, "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act", *Hansard Report* Canberra: Commonwealth of Australia, 16 October 1997, 1900.

Furthermore, ‘we see the question of native title as being an issue of justice’.⁹⁶ Dance explained that the issue of justice involved ensuring that

the relationship between Aboriginal and non-Aboriginal Australians be one which gives to both parties the ability to live with dignity.⁹⁷

For the Church, dignity was central to the arguments surrounding the Bill. There were also to be considered ‘moral and ethical perspectives which are the proper competencies of the Church’.⁹⁸ Specifically, the Australian Catholic Social Justice Council was concerned about the restrictions on the native title holder’s right to negotiate with pastoralists and miners, the proposed circumstances under which native title could be extinguished, and the proposal to provide for the compulsory acquisition of native title rights so that pastoral leases could be upgraded to full and exclusive title.⁹⁹ The affront to dignity that these measures represented was that they all encroached on the indigenous capacity for self-determination because

the balance of rights seems to unduly favour other titleholders to the detriment of indigenous people.¹⁰⁰

In contrast, in New Zealand the indigenous capacity for self-determination is in part protected by the acceptance of biculturalism, which arose out of a greater effective Maori assertiveness than exists among indigenous Australians. Although it is a philosophy which has limitations as well as providing opportunities for self-determination it unquestionably provides a political context which assumes a Maori voice. It accepts the

⁹⁶ Ibid., 1900.

⁹⁷ Ibid., 1900.

⁹⁸ Australian Catholic Social Justice Council, “Submission on the Native Title Amendment Bill 1997 to the Parliamentary Joint Committee on Native Title and the Land Fund”, 15 October 1997, 1.

⁹⁹ Ibid., 4-5.

¹⁰⁰ Ibid., 4.

legitimacy of Maori grievance and of a Maori place within public policy-making discourse.

The Social Justice Council's submission also wondered at the reasoning for the Bill, given that coexistence had been possible in many instances for one hundred and fifty years. One example is the Cape York Land Agreement in northern Queensland, which saw

pastoralists agree to continuing rights of access for traditional owners to pastoral properties for original purposes. These rights are: right to hunt, fish and camp; access to sites of significance; access for ceremonies under traditional law; protection and conservation of cultural heritage.¹⁰¹

The agreement countered the government's assumption that Aboriginals needed to be excluded in the interests of 'workability' and demonstrated that

negotiation between Aborigines, pastoralists and miners is possible, meeting different users different needs on pastoral leases.¹⁰²

Administrative arrangements similar to co-existence have been made in New Zealand that cannot be interpreted as contrary to the national interest. For example, in the area of natural resource management where the *Resource Management Act 1991* requires co-operation between Maori and local authorities in decision-making and in the implementation of resource management procedures.¹⁰³

The same notion was evident in the *Australian Citizens' Statement on Native Title*. Although a secular document, the Citizens' Statement was prepared with the assistance of the Christian Brothers' Edmund Rice Centre for Social Justice,¹⁰⁴ indicating an alliance

¹⁰¹ Brennan, *A Critique of the Native Title Amendment Bill 1997*.

¹⁰² Tony Reilly, "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill 1997", Submission No. AB174, 1997.

¹⁰³ New Zealand's *Resource Management Act 1991* is explained and discussed in Chapter Eight.

¹⁰⁴ The Edmund Rice Centre for Social Justice is associated with the religious order the Christian Brothers. It has a social justice advocacy function.

of common aspiration between the Church and the wider community on this issue. The statement was also written with a strong tone of reconciliation.

The Wik decision respected the rights of both pastoralists and Aboriginal people. Certainty is required for both groups. This cannot be provided by wiping out the legitimate rights of Aboriginal people. Negotiation is the only process which will make coexistence workable for all parties, as evidenced by the recent success of the Cape York agreement. Aborigines, no less than pastoralists and miners, have to be at the negotiating table and their rights have to be respected.¹⁰⁵

The coexistence of native title with pastoral leases is consistent with Catholic ideas on property because it recognises the right to own property, but that that right is qualified and not necessarily exclusive. However, in its general enthusiastic endorsement for the opportunities for indigenous Australians arising from the *Wik* decision, most within the Church did not extensively comment on the moral legitimacy of the qualification to native title established by the High Court. The Court's qualification - that where conflict existed between native title rights and the rights of pastoral leaseholders, the native title rights would yield¹⁰⁶ - was not concerned with the sharing of resources or with the rights of indigenous peoples as first occupants. It placed the needs and interests of indigenous peoples in a secondary position to those of pastoralists. Brennan has used the Court's legal interpretation to counter political arguments from those who consider pastoral interests are threatened by the prospect of coexistence. An assessment of the morality of the law from a Catholic perspective would however add to the body of religious argument on indigenous land rights. This omission has a parallel in the New Zealand Church's critically limited acceptance of biculturalism, which like *Wik* is a very useful

¹⁰⁵ Australians for Native Title and Reconciliation Coalition, "Australian Citizens Statement on Native Title", 1997.

¹⁰⁶ *The Wik Peoples v. the State of Queensland & Ors; the Thayorre People v. the State of Queensland & Ors*.

development from an indigenous point of view, but certainly not unproblematic from that same perspective.

Graeme Mundine,¹⁰⁷ an Aboriginal and a Marist Brother,¹⁰⁸ made a submission to the Parliamentary Joint Committee on the *Native Title Bill* in which he made general points similar to those of other Church submissions. However, his perception of himself as a member of a group that was not respected and whose interests were seen as an inconvenience by white Australia was reflected in the dispirited tone of his remark to the committee that

there are people going around saying at the moment that before 1967 we were classified under flora or fauna. They are saying that maybe it would have been better if we had stayed as flora and fauna because we would have had better benefits... At least we would be seen as an endangered species!¹⁰⁹

Mundine's comments also reflected an Aboriginal frustration and alienation. For Mundine, as an Aboriginal, the Bill was one sided and unsympathetic.

During the time of Mr Howard's Ten Point Plan and the several drafts of the Native Title Amendment Bill, it has become clear to us that... anti Aboriginal principles were being used... We see the total denial of... common law rights and the move to try and extinguish these rights, if not in fact then by stealth. One can only come to the conclusion that the Bill is aimed at denying Aboriginal people their rights, and we would suggest it is racially discriminatory.¹¹⁰

Given the circumstances of perceived 'tensions aimed at Aboriginal people',¹¹¹

Mundine's conciliatory tone and respect for the position of pastoralists was notable:

we, as a group, do feel for those pastoralists who have been on these leases for generations.¹¹²

¹⁰⁷ Graeme Mundine was Chairperson of the National Aboriginal and Torres Strait Islander Catholic Council.

¹⁰⁸ The Marist Brothers are a religious community of men founded by St Macellin Champagnant and are primarily involved in education.

¹⁰⁹ Graeme Mundine, "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act", Canberra: Commonwealth of Australia, 1997, 292.

¹¹⁰ *Ibid.*, 285.

¹¹¹ *Ibid.*, 290.

¹¹² *Ibid.*, 286.

Mundine was also unconvinced by the Special Minister of State Nick Minchin's inadequately explained assurances that the government would 'uphold the principles of *Mabo* and *Wik*'.¹¹³ He continued to argue for a solution based on reconciliation rather than division. His proposed solution was the negotiation of local agreements between Aboriginal and pastoralists because

agreements will last longer than any legislation, because they will be built on relationships and friendships – each knowing and feeling for each other. Coexistence is the basis of every civilisation. We all need to work hard together to bring about a just and fair Australia for all.¹¹⁴

The Church saw the *Wik* decision offering Aboriginals encouragement in the pursuit of land rights. However, other than a parish study group in Queensland, it was generally not noted that the gains offered were 'relatively small'.¹¹⁵ Further recognition of the benefits to Aboriginals as 'relatively small' inevitably became a lesser priority for the Church as Howard's 'attempt to negate' the gains of *Mabo* and *Wik* became of more immediate concern.¹¹⁶ In New Zealand too, the benefits are small relative to what has been lost, but are certainly more substantial than the gains of *Mabo* and *Wik*. Treaty settlements are of sufficient substance to be significant and to alarm the unsympathetic.

Although the potential advantage to indigenous peoples of the *Wik* decision were small, they were significant enough to alarm an unsympathetic government. The government's response certainly seemed unsympathetic to the Church, whose general response can be summarised with the observation of the Queensland parish study group.

¹¹³ *Ibid.*, 285.

¹¹⁴ *Ibid.*, 286.

¹¹⁵ St. Francis Xavier Catholic Church Aboriginal Reconciliation Study Group, Goodna, Queensland,, "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill", Submission No. AB697, 1997, 2667.

¹¹⁶ *Ibid.*, 2667.

It is our impression that to date most of the government's concern has been directed at the appeasing of pastoral and mining communities and that the just claims of native title holders and possible claimants have been largely ignored.¹¹⁷

Further Catholic support for coexistence came from Melbourne Catholic Social Services which also urged the Commonwealth to accept full responsibility for native title and 'not offer state governments the power to extinguish native title by stealth'.¹¹⁸

The question of the balance of power and responsibility for Aboriginal affairs has been controversial since it became a concurrent power. The Church's contributions to the native title debate have expressed doubts about the wisdom of allowing the states too much authority. The negative attitudes towards native title of some premiers of the time, in particular Bob Borbidge (Queensland), Richard Court (Western Australia), and Jeff Kennett (Victoria) explain Church reservations. Also, while the Church did not regard the Howard Government as necessarily any more sympathetic, the constitution of the Senate ensured that Howard would have to compromise some of the more antagonistic features of his Ten Point Plan.

In continuing the theme evident through the various Catholic submissions to the Joint Committee examining the *Native Title Bill 1997* the Social Action Committee of the Leaders of Catholic Religious Orders in Victoria argued that coexistence was the 'only workable and fair option'. The submission suggested that

the Bill is divisive, pitting miners and pastoralists against indigenous Australians... [it] is discriminatory on the basis of race in that it paves the way for the wholesale extinguishment of the property rights of one race only, Aboriginal and Torres Strait Islanders.¹¹⁹

¹¹⁷ Ibid., 2668.

¹¹⁸ Archdiocese of Melbourne Catholic Social Services, "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill 1997", Submission No. AB1161, 1997.

¹¹⁹ Stancea Vickie, "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund., Native Title Amendment Bill 1997", Submission No. AB47. Social Action Committee of the Leaders of Catholic Religious Orders in Victoria, 1997, 1.

The Victorian Religious Leaders further commented that

It is misleading to the people of our nation in that it suggests that a choice must be made between Native Title and the country's economic and rural development.¹²⁰

It was the view of the Rockhampton Social Justice Action Group that

We cannot, as a nation, stand aside and allow our most marginalised people to be excluded from sacred sites and prevented from taking part in traditional cultural practices, such as fishing and hunting.¹²¹

From a Catholic point of view the reason why 'we cannot... stand aside' is that exclusion from traditional lands and practices prevents self-determination, undermines the right to a homeland and the right to culture, which together challenge the right to exist. It also overlooks the teaching that while Aboriginal people are required to share the land in the interests of the common good, the common good also establishes that indigenous peoples can not be required to relinquish their traditional rights and properties. The Rockhampton Social Justice Action Group also noted in a form letter written for individual parishes to send to Howard that:

The biggest leases, of course, belong to some of the richest and most powerful Australian individuals and companies. However, this should not persuade your government to ignore the rights of Aboriginal people.¹²²

The government's approach to native title was divisive. While the president of the Queensland National Party was sufficiently informed to have no fear of spending four million dollars on a new pastoral lease,¹²³ others feared for their livelihood and neither the government nor pastoral leaders made any effort to allay those fears. Successful examples of coexistence were undermined and native Australians faced the erosion of elementary rights, such as those of fishing and hunting on traditional lands. Pastoralists

¹²⁰ Ibid.

¹²¹ Diocese of Rockhampton Social Justice Action Group, "Petition to Hon. John Howard, Prime Minister", 1997.

¹²² Ibid.

¹²³ Brennan, "A Free Speaking Church Goer's Guide to Wik in '98".

were encouraged to see indigenous peoples as a threat, while for Aboriginals, pastoral and mining interests were to become unnecessarily threatening to traditional life. Kevin Manning, Bishop of Parramatta, observed that

the tragedy of the native title debate is that rural and indigenous communities have been set against each other. One can not help but feel that native title has become a scapegoat for the deliberate decisions of government that favour urban areas over the rural... many government services in rural areas have closed. Towns have dwindling populations and farms have been repossessed. Many of the poorest communities in Australia are in rural areas.¹²⁴

The Commonwealth response to native title could have promoted reconciliation or it could have promoted division, and the Howard government chose the second option:

Throughout the native title debate it appeared that the government considered that Aboriginal interests were a threat to economic development. Brennan's suggestion that this was not a justifiable argument in the case of co-existence of pastoral leases, was supported by the President of the Queensland National Party, Don McDonald's willingness to purchase a new lease, for example. Furthermore the Melbourne Commission for Justice, Development and Peace suggested that

matters of equity, justice and fairness do not need to be subjugated in the interests of economic development but can coexist.¹²⁵

Catholic social teaching however goes further and maintains that the purpose of economic development is to improve the material condition of people, including indigenous peoples. For the Church economic development is not legitimate unless it contributes to equity, justice and fairness. Patrick Power,¹²⁶ Auxiliary Bishop of Canberra and Goulburn, has noted that economic development and indigenous property rights are

¹²⁴ Kevin Manning, "The Vatican Calls for Land Reform", Media Release, Sydney, 29 January 1998, 1.

¹²⁵ Liz Curran, Open Letter to Hon John Howard, Prime Minister, Melbourne, 27 February 1998, 3.

¹²⁶ Patrick Power became Auxilliary Bishop of Canberra and Goulburn in 1986. While he has been secretary of the Australian Catholic Bishops' Committee for Social Welfare the Committee has taken a detailed interest in indigenous affairs.

not mutually exclusive. He remarked that there are examples of companies having worked productively with indigenous peoples and argued that ‘working with Aboriginal people is likely to be far more advantageous than working against them’.¹²⁷ However, working against indigenous peoples seemed to be the principle behind Howard’s Ten Point Plan.

For indigenous peoples in Australia and New Zealand the opportunities for developing large-scale commercial ventures are limited by size and relatively limited financial resources. Therefore joint ventures are all the more important. Access to commercial opportunities is important for indigenous peoples because they enhance the prospects of economic self-determination. Indigenous peoples maintain a vested interest in working with and not against economic development,¹²⁸ which does not in itself have to compromise traditional lifestyles and religious practices. For indigenous Australians Power has argued that

engagement is the key. Aboriginal people are looking for partnership, not paternalism. Successful relationships, whether they be in business, families or local communities, or in any sphere of life, are built upon co-operation rather than confrontation. If the globalised economy has anything to teach us about how we ought to relate to one another, it is that interdependence is the reality in which we live. No man, woman, community or nation can exist as an island, refusing to engage with those around them. That is a recipe for failure.¹²⁹

Although the Church has not consistently applied its teachings in the political arena, it clearly claims the authority to challenge affronts to its magisterium by governments and

¹²⁷ Patrick Power, “Justice and Wik”, *CommonWealth* Volume 6, Number 2, 1997, 10.

¹²⁸ For example the ‘Seizing Our Economic Future, Indigenous Economic Forum held in 2003 focused on indigenous economic development including economic partnerships with non-indigenous business. The Forum papers are available at

http://www.indigenousforums.nt.gov.au/dcm/indigenous_policy/forums/forum_papers.shtml

[cited 25 November 2003. The nature and extent of Maori participation in the New Zealand economy is fully discussed in New Zealand Institute of Economic Research and Te Puni Kokiri. *Maori Economic Development Te Ohanga Whanaketanga Maori*. Wellington. New Zealand Institute of Economic Research, 2003. Specifically an indigenous unemployment

¹²⁹ Power, “Justice and Wik”, *CommonWealth* 1997, 10.

political parties. However because ‘one needs to be on guard against the politicisation of existence’,¹³⁰ the Church is cautious about intervening in public debate. But having accepted that its input into the native title debate was proper and that many of the principles of Catholic social teaching were being threatened by the government’s approach, the Church was committed to keeping it on the political agenda for the 1998 federal election. While acknowledging that there were other important issues to be considered during the election campaign, the Melbourne Catholic Commission for Justice, Development and Peace was concerned that taxation reform, employment and industrial relations might overshadow ‘justice for indigenous Australians through the recognition and exercise of their... cultural rights.’¹³¹ The importance of native title for the Church went beyond the Catholic notions of justice that were at issue. It was clear that a sympathetic resolution would enhance the prospects of genuine and long lasting reconciliation between black and white Australia, while a hostile resolution would most likely end that prospect. Native title offered an important opportunity

to rectify the transgressions of the past and to stand with, not against indigenous Australians in a real, genuine and ongoing dialogue.¹³²

It was with this in mind that Christopher Saunders, Bishop of Broome, and secretary of the Bishops’ Committee for Aborigines, brought controversy to the election campaign by suggesting that priests would encourage ‘a vote against the candidate who would support an unjust position’.¹³³ While there are examples of the Church having encouraged votes

¹³⁰ Sacred Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the “Theology of Liberation”*, 17.

¹³¹ Liz Curran, “It Is Time for the People to Lead and the Leaders Will Have to Follow”, Media Release, 9 April 1998, 1.

¹³² *Ibid.*, 1.

¹³³ Christopher Saunders, *Sydney Morning Herald* 3 April 1998. (Sydney [cited 13 April 1998]); available from <http://www.smh.com.au>

one way or another in many circumstances and in many jurisdictions, there are only limited circumstances in which that approach is justified by the magisterium because Catholic teaching does not prescribe specific solutions to political questions. But it can exclude some proposed solutions, such as those that involve racial discrimination, the undermining of the common good or the compromising of the qualified property rights that the Church upholds. Liz Curran, explaining the position in 1998, suggested that

the central underpinning of any discussion of issues in an election campaign should be whether or not the policy in question enhances and promotes the human rights and dignity of the Australian people.¹³⁴

The context required Saunders politically controversial statement. Since the magisterium precludes certain policy options, such as those which are racially discriminatory, it follows that priests should encourage votes against those positions. It was clear in this context that Saunders was advocating votes against candidates of the Liberal, National and Pauline Hanson's One Nation parties because throughout the native title debate the Church had challenged the native title policies of all three parties. The *Sydney Morning Herald* reported that Saunders' explained his position thus: 'in the years when Aboriginal children were taken from their families the Church had done nothing'. Therefore:

We have made a commitment to indigenous people at the stolen children inquiry that if we come to such an impasse again, the Church would be morally bound to speak up to ensure justice would prevail... if there's a finality about this at the election, we'll be locked into a situation where history will be repeating itself... there is a moral imperative for the Church to take a clear stand.¹³⁵

Further tension and a further justification of Saunders intervention arose during the Senate native title debate the previous evening (2 April 1998), when the government

¹³⁴ Curran, "It Is Time for the People to Lead and the Leaders Will Have to Follow", 1.

¹³⁵ Saunders, *Sydney Morning Herald* 3 April 1998. (Sydney [cited 3 April 1998]); available from <http://www.smh.com.au>

persisted with its refusal to allow indigenous peoples the right to negotiate over new mining proposals. This prompted Brennan to suggest that there could be no further Aboriginal compromises because 'the bar is now too low for any more'.¹³⁶ Saunders' comments were made amidst growing tension on the prospect of a 'race election'. On the same day that Saunders' remarks were reported, the leader of the federal Opposition, Kim Beazley, accused the Prime Minister of 'trawling for a race election'. The previous day the Opposition deputy leader, Gareth Evans, had said of the Prime Minister 'this bloke seems to be never so happy as when he's bashing blackfellas'. Evans was responding to what he saw as Howard's 'exuberance' over a High Court decision that he perceived detrimental to indigenous interests. The Treasurer, Peter Costello responded by accusing Evans of 'disgusting racial slurs against the Prime Minister', while the Minister for Industrial Relations, Peter Reith, said that Evans had made a 'sleazy slimy racist slur'. Howard himself responded by saying that Evans' comments were 'deliberately calculated to inflame the temperature of this whole debate'.¹³⁷ Whether deliberate or not, the debate Saunders entered into had certainly been inflamed, with Saunders himself adding further inflammation.

Saunders' intervention was significant because it was unusual, but also because it followed Special Minister of State Nick Minchin's comments about the involvement of churches in the election campaign. The previous month the *Sydney Morning Herald* reported Minchin as saying that the government would instruct its candidates 'not to make inflammatory comments on race' in the event of an election caused by the Senate obstructing the government's native title legislation. Minchin went on to say that

¹³⁶ Frank Brennan, *Sydney Morning Herald* 3 April 1998. (Sydney [cited 3 April 1998]); available from <http://www.smh.com.au>

¹³⁷ *Ibid.*

it will be very regrettable if there are churches who seek to inflame it [the debate], because it is potentially an inflammatory issue.¹³⁸

Noel Kennedy, President of the United Graziers' Association, the representative body of pastoralists, correctly claimed that the efforts of churches to place reconciliation on the election campaign agenda were promoting resentment to Aboriginal people.¹³⁹ It was however resentment based on ignorance and a strong preference for injustice to prevail. Kennedy argued that

before the Mabo decision, there was no need for reconciliation... Nobody even thought about it... People just treated each other as people, that sort of thing.¹⁴⁰

If there had been no perceived need for reconciliation it was because the political process had not created space for the extent of indigenous grievance to be widely acknowledged and ignorance could thus prevail. As Chapter Three especially has shown, there were too many exceptions to Kennedy's hopeful assertion that 'people just treated each other as people' for his position to be seen as other than a denial of indigenous aspiration.

In New Zealand, the entrenchment of biculturalism as a broad philosophic rationale around which policy decisions are made has meant that in spite of the philosophy's limitations, there is little likelihood of attitudes such as Kennedy's influencing policy elites. Kennedy's viewpoint, supported in part by John Howard, does not assume or consider legitimate a similar place within the body politic for indigenous Australians.

Race continued to be an important political issue during the 1998 election campaign with extreme positions emerging even within the Church. A vocal response to the moderate positions of support for native title from throughout the Church came from a priest of the

¹³⁸ Nick Minchin, *Sydney Morning Herald* 6 March 1998. (Sydney [cited 6 March 1998]); available from <http://www.smh.com.au>

¹³⁹ Noel Kennedy, *The Age* 20 September 1998. (Melbourne [cited 20 December 2000]); available from <http://www.theage.com.au>

¹⁴⁰ Ibid.

Missionaries of the Sacred Heart, Brendan Walters, a lawyer, who had advised Catholic pastoralists dissatisfied with the broader Church response to native title.¹⁴¹ Walters made the claim that ‘there appears to be no sympathy in the Catholic Church for the fact that pastoralists stand to lose their livelihoods and their homes’.¹⁴² It was not a ‘fact’ that pastoralists stood to lose their livelihoods or homes, and the Church had never promoted such an idea. Indeed the Church did not challenge the Court ruling that where there was a conflict between native title rights and those of pastoral leaseholders, it would be the pastoralists whose rights would prevail (*Wik*).

But, Walters also made a controversial attack on Barry Collins, Bishop of Wilcannia/Forbes, from which his own order publicly dissociated itself. Walters

was concerned that the bishop, when interviewed about the concerns of country people, failed to mention native title, which he described as ‘the most pressing of all issues threatening the very existence of the rural industry and the lives of country people’.¹⁴³

Walters was misrepresenting the ruling of the High Court and its implications. Although he had

provided much of the material being used by... disaffected Catholic pastoralists, (he) has provided no considered analysis of the sticking points between the Howard government and the Senate.¹⁴⁴

The tension between Walters and other members of the Catholic clergy demonstrated that for the Church indigenous issues can be a test of its catholicity: does it truly stand above a clash of cultures and help to bring to light a way forward for all peoples involved? For Walters it appeared not. He was joined in his misrepresentation, which was effectively a

¹⁴¹ Frank Brennan, *Eureka Street* (3 August 1998: [cited 3 August 1998]); available from www.openplanet.com.au/content/eureka/html.

¹⁴² Brendan Walters in Brennan, *Eureka Street*.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

dismissal of indigenous interests and by extension the right to self-determination. The United Graziers' Association wrote to its members criticising the Catholic Church's participation in the debate.¹⁴⁵ The invalidity of these criticisms of the Church by pastoralists, including many Catholics, was simply explained by Brennan with reference to comments made by Ron Boswell, a National Party Senator for Queensland:

National Party elder statesman Ron Boswell insists that *Wik* needs to be fixed for the good of the mining industry. He does not mention the long-term problems for pastoralists because there are none. If you want proof, look at what the big spenders do, not at what they say. National Party President, Don McDonald has just spent \$4 million on a new pastoral lease which is subject to native title claim.¹⁴⁶

The Australian Church has come under much criticism from pastoral and other interests unsympathetic to its advocacy of coexistence. There have been suggestions that the Church has been unduly pro-indigenous Australian, and anti-pastoralist and anti-mining. Instead it was the neutrality of proposals of coexistence such as that put by Brennan, which caused a sometimes hysterical reaction from pastoral interests:

in the name of certainty, simplicity and justice, we should try and effect a regime whereby Aboriginal people who are bona fide native title claimants will have a guaranteed right of access for hunting, fishing, camping and ceremony, and pastoralists will have a guaranteed right to engage in any state authorised activity of primary production or farmstay tourism.¹⁴⁷

The evidence does not support an argument of anti-pastoral bias from the Church, it instead highlights the extreme situation that Brennan identified:

for pastoralists to say that they should have a further entitlement to upgrade their tenures to a right of exclusive possession, can not be done... except in a racially discriminatory way.¹⁴⁸

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Brennan, "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act", 407.

¹⁴⁸ Brennan, *A Critique of the Howard Government's Ten Point Wik Plan*.

The recognition of native title does not mean that non-indigenous groups do not have rights, instead it means that those rights are qualified because as Clancy argued:

There must not be first-class justice for some and second-class justice for others. There are serious flaws in the Government's 10-point plan, which were to the disadvantage of the Aboriginal people. In addressing them, however, we must acknowledge the rights and anxieties of pastoralists and others and give them proper attention also.¹⁴⁹

A further argument raised by Brennan was that if native title rights were extinguished, compensation would be required and that a significant cost to the taxpayer would therefore be incurred.¹⁵⁰ The cost to the taxpayer of compensation hence became a further moral argument against extinguishment. Not only would Aboriginal dispossession in the interests of a small number of beneficiaries undermine the common good, the common good would also be compromised by the imposition of a financial burden on the wider community who would not themselves gain from the extinguishment of native title.

In 1997 a position which was neither for nor against any party, but with important implications for all interests in the post Wik native title debate, was adopted by *CommonWEALTH*.¹⁵¹

Many pastoralists and non-indigenous bush families experience the uncertainty created by this decision [Wik] as the latest in a series of burdens they have to bear, for life in our rural communities is under great strain as the result of many economic and social changes. It is important, in this context, that the legitimate claims of indigenous people for access to land, not become the target of the frustration of such non-indigenous communities caused by these other factors which are unrelated to native title. At the same time, indigenous people need to recognise the fact that many bush families have strong emotional attachments that could be described in some sense as spiritual to the land over which they hold pastoral leases. The mutual recognition of our shared humanity and legitimate hopes and aspirations is the key to reconciliation.¹⁵²

¹⁴⁹ Edward Clancy, "Land Rights at the Crossroads", in *The Catholic Leader*, Brisbane, 30 November 1997.

¹⁵⁰ Brennan, *A Critique of the Howard Government's Ten Point Wik Plan*.

¹⁵¹ *CommonWEALTH* is a publication of the Australian Catholic Bishops' Committee for Social Welfare.

¹⁵² *CommonWEALTH* Volume 6, Number 2, 1997, 1.

This is not the language of uncritical support for Aboriginal aspirations, nor is it the language of a dismissal of pastoral interests. The common good requires compromise, but it does not require a complete yielding of rights by one group to another.

The suggestion by some Catholic pastoralists that through its stance on native title the Church had abandoned rural people, was in fact not a suggestion about rural people generally, but about rural white pastoralists who had been misinformed by their industry and political leaders of the implications of the *Wik* decision. It was never the Church's intention to alienate white people or denigrate their concerns, but it was its intention to promote the addressing of white concerns without giving rise to further injustice towards Aboriginal people. It was to be expected that the Church could avoid the denigration of white pastoral interests at the same time as acknowledging the legitimacy and possibility of native title being recognised because the Church should in its own terms differ from secular political parties and lobby groups in its approach to political questions. The Church's participation in native title debates demonstrated the possibility that the Church might differ from the secular realm in its values about what is most important. This is because its conception of the human being precludes a purely short-term adversarial approach to disagreement. The Catholic perception of the human-being is not the individualist one of political liberalism. Unlike the parliamentary candidate, the Church is not involved in an immediate campaign for the support of 50% plus one of voters and its inclusive concern creates a broader acceptance of what counts as solutions. The Church can take a longer term approach to political problems and need not fall into despair or give up hope of justice if such has not been achieved by election day. Its very catholicity should preclude bias towards any one people and allow a focus on a universal standard of

justice – the natural law – a higher standard of justice by which all human attempts at justice are judged. The Church's ultimate goal is the realisation of human dignity – not the individual prosperity of one group at the expense of another.

Saunders explained the desirability of reconciliation over division, and the Church's interest in the difficulties faced by white rural people:

The Church is only too aware of the concerns of rural people about the host of critical issues – including native title. As long as the debate is a them and us affair, there will be no way out of entanglements... it is a sorry state of affairs when Aboriginal people and their newly found [in the High Court] rights are made the scapegoats for the ineptitude of governments... [for] the poverty and hardship wreaked upon the rural community by careless governments and city centred bureaucracies... rural communities are hurting in modern day Australia. That is a fact. Cessation of native title, as proposed by the federal government in its amendments, will not alter this... That is also a fact.¹⁵³

The allusion to wider economic and social circumstances imposing pressure on the bush, and the implication that native title had perhaps become a scapegoat for other important but unrelated matters is an example of the economic inequalities contributing to social tension, which concerned the Second Vatican Council.¹⁵⁴

There was also critical reaction from some Members of Parliament to the Church contributing to native title debates in the months preceding the 1998 general election. For example, in 1997 the Liberal Member of Parliament for the far north Queensland division of Leichhardt, Warren Entsch, called for a boycott of churches by rural people, to protest against their positions on Aboriginal policy, especially native title. Entsch claimed that church leaders were out of touch with their – presumably white - rural members and that

The church debate has been driven by activists down south... These church leaders in Sydney and Melbourne do not represent the views of their rural people.¹⁵⁵

¹⁵³ Christopher Saunders, Media Release, Broome, 31 January 1998.

¹⁵⁴ The Second Vatican Council, *Gaudium et Spes*, 29.

¹⁵⁵ Warren Entsch, *The Age* 24 November 1997. (Melbourne [cited 24 November 1997]); available from <http://www.theage.com.au>

The Anglican, Catholic and Uniting churches all rejected Entsch's view. The two Catholic bishops to make an immediate response were significantly not 'activists' from 'down south', but James Foley, of Cairns, in whose diocese the Liechhardt division is located, and Christopher Saunders of the Kimberley diocese of Broome.¹⁵⁶ The parish priest in Entsch's hometown Mareeba, Rob Greenup, explained the local Catholic Church's interest in native title in language that was clearly not that of a political activist:

In our parish there is a lot of activity directed towards drawing people together and building greater understanding and harmony among the races represented here.¹⁵⁷

In 1998 the One Nation federal Member of Parliament for Oxley in Queensland, Pauline Hanson, responded to Church criticism of her attacks on the Aboriginal and Torres Strait Islander Commission by saying that Church leaders have no role in politics.¹⁵⁸ Like Entsch, Hanson neither explained her position, nor justified her implicit assumption that it was proper for a Member of Parliament to determine for it a church's role. The Catholic Church's participation in the Aboriginal debate demonstrated its belief that 'Aborigines have a right to expect from Christians deeds rather than words'.¹⁵⁹ The Church's attention to that right received critical reaction, which demonstrated the truth of the observation of the *Instrumentum Laboris* of the Synod of Bishops for Oceania.

As she undertakes this task of proclaiming the Truth to society, she often experiences opposition and hostility. Many insist that there are strong social forces that would like to relegate the Church – and religion in general – to the realm of private life, where she would be merely a matter of individual choice. Many people cannot see why her preaching should influence political life and public policy. This is what has been referred to as the divorce of Christ and culture, the secularism that would neutralise the influence of the Christian message on law, social institutions

¹⁵⁶ Brennan, "A Free Speaking Church Goer's Guide to Wik in '98",

¹⁵⁷ Rob Greenup, *The Age* 24 November 1997. (Melbourne [cited 24 November 1997]); available from <http://www.theage.com.au>

¹⁵⁸ Pauline Hanson, *The Age* 20 September 1998. (Melbourne [cited 20 september 1998]); available from <http://www.theage.com.au>

¹⁵⁹ Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 4.

and customs, so that society can function wholly independently of the Christian faith.¹⁶⁰

The legitimacy of the Church's 'role in politics' in the context of the 1998 federal election was further presented by Liz Curran, Executive Officer of the Archdiocese of Melbourne's Catholic Commission for Justice, Development and Peace. Curran's view that 'evil will prevail when good people do nothing'¹⁶¹ is for the Church the consequence of the separation of 'Christ and culture'. Curran's remark followed from the position adopted by the Australian Catholic Bishops' Conference in their pastoral letter *Aboriginal People* in 1980.

Aborigines still have more than their fair share of misfortune. You will find them in disproportionate numbers amongst the unemployed and the disadvantaged. Many are illiterate, many suffer from chronic illnesses. Here is reason for Christian concern. Immediate relief can be afforded by those who are prepared to heed Christ's injunction to feed the hungry, clothe the naked, visit the sick or imprisoned (Matthew 25: 31-46).¹⁶²

The bishops went on to argue a need to move beyond attention to these material and immediate concerns and that the Church should

search out the causes of these social ills, and... find lasting remedies. Concern alone will not necessarily be effective.¹⁶³

The religious activism in the political arena that became pronounced during the 1990s was justified not as the pursuit of a political agenda but as a lobbying of the body politic to recognise religious rights belonging to indigenous Australians. The process was unquestionably political, but the motivation religious. Therefore the Church was able to

¹⁶⁰ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 22.

¹⁶¹ Curran, "It Is Time for the People to Lead and the Leaders Will Have to Follow", 1998, 1.

¹⁶² Australian Catholic Bishops' Conference, "Aboriginal People".

¹⁶³ Ibid.

avoid its ‘dilemma with politics’¹⁶⁴ and engage with the political realm on its own terms and avoid manipulation from unsympathetic quarters towards an impotent neutrality, resulting in an ignoring of religious mission.

Summary

The Church’s recent consistent and forthright engagement with the secular political realm to advance religious mission was required by the Second Vatican Council. That requirement translated into practice not just on the basis of institutional will, but with the practical encouragement of a secular political process that ensured the lasting presence of indigenous concerns on the public policy agenda. As an institution conceiving itself as ‘in’ but not ‘of’ this world the Church required intellectual alliances of common aspiration to give secular context to its magisterium, but not the alliances of superficial political ideology that have on occasion been formed in New Zealand. The Second Vatican Council’s insistence that a willingness to attend to the public implications of religious principle be developed was aided by the body politic’s creation of space for such alliances to form, even though there did remain significant prejudice and anti-Aboriginal sentiment within the body politic. The Australian Church’s alertness for political issues to give secular context to its theology allowed political context to be utilised for the pursuit of the religious goal of reconciliation. Reconciliation therefore, also became a political goal in the secular order. This connecting of religious aspiration to political means was made possible by an unprecedented level of religious activism in support of indigenous aspiration. That aspiration was led by John Paul II and its strong support by the Australian Catholic Bishops’ Conference suggested a closing of the gap between the Holy See’s statements of principle and the public interpretation of principle

¹⁶⁴ Henry, “Between Gospel and Policy: The Catholic and Social Problems”, 104.

by a local Church in its contemporary context. This narrowing of the gap between magisterial thought and practical expression suggested that the Australian Church had come to recognise that religious mission can not but be carried out within the context of the politics of the 'earthly city', and to ignore that context is therefore necessarily to ignore its mission.

CHAPTER SEVEN

Reconciliation, Religious Activism, Biculturalism and the Treaty of Waitangi: The New Zealand Church after the Second Vatican Council

Introduction

After the Second Vatican Council the New Zealand Church began to seek more willingly and vocally the formation of intellectual alliances of common aspiration in order to promote religious principle in the public realm. It began to recognise and respond comprehensively to the discrimination, prejudice and racism to which Maori people were subject. Denis Browne, Bishop of Auckland, acknowledged that such recognition had not always characterised Church practice. He suggested that New Zealand could not be proud of the history of Pakeha relationships with Maori because they have often been ‘marred by insensitivity and exploitation’.¹ Browne explained this inconsistency with Catholic thought by reference to the statement attributed to Jesus, ‘I have come in order that you might have life - life and all its fullness’.² This message, he said,

is uncompromising and binds all who profess Jesus as Lord... That does not allow for discrimination, for greed or for injustice.³

Yet just as in Australia, consistent and unashamed advocacy of such principle took place only after simultaneous political developments during the 1960s and 1970s created space on the political agenda for the expression of a plurality of views. In both countries movement in popular political thought shifted a constant religious ideology from the fringe of secular discourse to one that while still resisted by many, is accepted by a sizeable policy elite. The emergence of a new political space laid the foundations for an

¹ Denis Browne, “New Year Message from Bishop Denis Browne”, ACDA Bro\AD-46\ File 46b, 3 January 1988.

² The Gospel According to John, *Good News Bible: Today's English Version*. Chapter 10: 10.

³ Denis Browne, “New Year Message from Bishop Denis Browne”, ACDA Bro\AD-46\ File 46b, 3 January 1988.

institution that in its own terms is not 'of this world' to begin an activism in support of indigenous aspiration. The New Zealand Church came to accept that if religious mission occurs within a political context, religious goals cannot but be attended to by the formation of intellectual alliances of common aspiration in the secular realm. That activism has been encouraged by the emergence of the religious theme reconciliation as a key principle informing Crown and Maori relationships. Yet at the same time, there have been instances of the compromising of religious authenticity through acceptance of the politics 'of' this world, rather than the Catholic magisterium as a motivating force. Indeed John Paul and bishops Brian Ashby, Denis Browne, Godfried Daneels and Basil Meeking have at various times, independently of one another, encouraged religious activism in support of Maori aspirations. But at the same time, some lay Catholics have tended instead to propagate the Church's name in support of political aspiration without reference to the magisterium, which ought from a Catholic perspective, have higher moral authority than the Treaty of Waitangi, or a secular political philosophy.

Political Change

In New Zealand there is no single parallel to the Australian Constitutional referendum in 1967 which can be identified as marking a turning point in the relationship between the Crown and indigenous communities. Instead, from the 1960s until the present time the relationship between the Crown and Maori has incrementally developed towards a dismissal of any notion of 'racial harmony'. This dismissal has helped establish a foundation for reconciliation and helped widen the political space in which the Church can seek alliances of common aspiration which allows religious objective to be given secular expression.

In 1960 the policy of assimilation was modified to 'integration'. Integration was a transitional phase towards assimilation, and became the official policy goal of the newly elected second Holyoake Government (1960-1972). The policy was developed from the recommendations of a report to the government by J.K. Hunn, Secretary for Maori Affairs. The Hunn Report explained that the purpose of integration was

to combine (not fuse) the Maori and Pakeha elements to form one nation wherein Maori culture remains distinct.⁴

But the report also

displayed a shallow understanding of Maori culture, and added that the two races showed signs of passing through integration to assimilation. Hunn had failed to perceive the strong Maori desire for a separate cultural identity, indeed for cultural renewal in the cities. Articulate Maori opinion rejected the official concept of integration.⁵

Integration challenged the means of achieving assimilation, but not the goal itself. Assimilation was flawed not only on religious grounds, but also on the practical ground that just as in Australia many indigenous peoples

realise that prejudice and discrimination limit the possibility of their entering [white society].⁶

An example of practical impediments to assimilation was raised through *Whiti Ora's* justification of guaranteed Maori representation in Parliament, on the grounds that,

even in New Zealand there is reason to believe that a candidate might be handicapped by being a Maori.⁷

The philosophical premises informing assimilation began to be undermined by the Kirk Government (1972-1974) because its *Treaty of Waitangi Act 1975* gave the Treaty a

⁴ New Zealand Department. of Maori Affairs, J. M. Booth, and J. K. Hunn, *Integration of Maori and Pakeha*. Wellington: Govt. Print., 1962, 14.

⁵ Graeme Dunstall, "The Social Pattern", in *The Oxford History of New Zealand*, ed. W. H. Oliver and B. R. Williams. Oxford: Oxford University Press, 1981, 424-425.

⁶ Australian Catholic Social Justice Council, "Social Justice Sunday Statement", 16.

⁷ *Whiti Ora* July 1964, 7.

political and legal status it had not previously enjoyed, and broadened the parameters of debate concerning Maori/Crown relationships, biculturalism and the place of Maori in New Zealand society. In placing the Treaty more emphatically on the political agenda, the Kirk Government established a more clearly identifiable political context in which the Church could teach its religious message. The Act established the Waitangi Tribunal, which was empowered to investigate and recommend compensation for breaches of the Treaty of Waitangi. Although the Tribunal was not granted retrospective powers until 1985, the 1975 legislation was important because it legitimised and gave impetus to the Maori restoration of an economic, social and cultural base. It brought the Treaty of Waitangi to a more prominent public position, and provided the focal point around which much of contemporary Maori policy debate is carried out.

However the Act's inability to investigate historic grievance and the election in 1975 of a government unsympathetic to reconciliation, created a political context in which public expression of discontent by Maori was common. That discontent challenged any notion of 'racial harmony' and in September 1975 Whina Cooper, a lay Catholic descendant of those first evangelised by Pompallier, began a land march at New Zealand's northernmost point. Over the following month the march made its way to Wellington where the protestors marched on Parliament with a simple demand: 'control of Maori land in perpetuity'.⁸ The marchers' slogan 'Not one more acre of Maori land to be surrendered to the Pakeha' was equally direct. Ranginui Walker, a Maori academic commentator, noted that the march had attracted considerable media and public attention and

⁸ Robert Consedine and Joanna Consedine, *Healing Our History: The Challenge of the Treaty of Waitangi*. Auckland: Penguin Books, 2001, 104.

as a consequence of the land march, Maori people throughout the land were politicised in a unity of purpose to a level unprecedented in modern times, in the struggle against colonization.⁹

This unity of purpose allowed Ngati Whatua to attract support beyond its own membership when in 1977 the Muldoon Government (1975-1984) planned to subdivide and sell for housing 24 hectares of Crown land at Bastion Point. Bastion Point was a traditional fishing village prior to 1840 when it was acquired by the Crown. It was acquired as part of a purchase of 1215 hectares of the Auckland isthmus for £241. However within nine months the Governor, William Hobson, had sold 17 of those hectares to settlers for £24, 275.¹⁰

Protesters occupied Bastion Point for 506 days. This was the first time Ngati Whatua protested outside the law.

For over 100 years after the first intervention of the Native Land Court in 1868, the Ngati Whatua had protested, but until 1976 they have always protested within the law. They launched eight actions in the Maori Land Court, four in the Supreme Court, two in the Court of Appeal, two in the Compensation Court, six appearances before Commissions or Committees of Inquiry and 15 parliamentary petitions.¹¹

In response to the occupation 222 protesters were arrested for trespass on Crown land.

The use of army and police, ordered by... Muldoon, received dramatic media attention, which reverberated through the country. That event symbolised a national day of shame for New Zealand.¹²

The events at Bastion Point on 25 May 1978 confirmed the place of land rights in the public mind. Along with the rugby tour to New Zealand of a racially selected South African Springbok team in 1981, the Bastion Point protests helped to entrench issues of

⁹ Walker, *Struggle without End: Ka Whawhai Tonu Matou*, 214.

¹⁰ P. B. Temm, *The Waitangi Tribunal: The Conscience of the Nation*. Auckland, N.Z.: Random Century, 1990, 62.

¹¹ Ibid., 62.

¹² Consedine and Consedine, *Healing Our History: The Challenge of the Treaty of Waitangi*, 104-105.

race in both the wider public and Catholic consciousness.¹³ The settlement of the Bastion Point dispute by way of compensation and recognition of Ngati Whatua ownership in 1987, was described by Browne as an event of ‘great importance for New Zealanders’ and an ‘act that will have far reaching consequences for our country’.¹⁴ The settlement’s ‘far reaching consequences’ are not so much this one instance of reconciliation itself, but that it was possible due to legislative change that has had positive consequence for several iwi throughout New Zealand.

In 1985 an amendment to the *Treaty of Waitangi Act 1975* allowing the Waitangi Tribunal to investigate grievances dating to 1840 reflected a further changing political and legal climate, which was to have widespread ramifications for Maori. The amendment paved the way for iwi throughout the country to begin the process of seeking recompense for past injustices, particularly the settlement of land claims, in the hope that settlement would facilitate the restoration of an economic base which had become so obviously lacking among many Maori communities. In New Zealand land rights were receiving informed systematic attention in a fashion that was at the same time unachievable in Queensland for example, where the Premier believed that the seeking of indigenous land rights was not motivated by a belief that a specific claim was just, but by the subversive intent of other countries to separate Aboriginal land from the Australian nation.¹⁵

The democratic pluralist nation state affords limited opportunities for self-determination to indigenous peoples who lack a substantial geographic base that is clearly distinguishable from that of the majority population. Within this limiting context

¹³ Ibid., 106.

¹⁴ Browne, “New Year Message from Bishop Denis Browne”.

¹⁵ Joh Bjelke-Petersen in Attlee, “Christianity and Aboriginal Culture”, 130.

however, some prospect of further self-determination occurred during the 1980s. Firstly, with the opportunity of further Treaty settlements under the Lange Government (1984-1989), and secondly with broader policies designed to encourage Maori development, and enhance the opportunity for individual iwi to contribute to their own development. For example, shortly after taking office the government hosted a Hui Taumata – Maori Economic Summit. The meeting raised

an expectation that Maori people could realise greater levels of economic self-sufficiency, improved social well-being and less dependency on the state if they took advantage of their own distinctive social institutions such as iwi and hapu and actively developed their own tribal resources.¹⁶

Even if Maori expectations have yet to be fully realised, these changes in policy direction, at least meant Maori interests were prominently entrenched on the political agenda and a clear context for the advocacy of Church teachings established. The expectations of the Hui Taumata which Durie described were also consistent with Catholic teachings on subsidiarity and the development of peoples.

Maori Parliamentary Representation

The system of guaranteed representation in Parliament saw Maori people serve in Cabinets over one hundred years before Neville Bonner became the first indigenous Australian elected to any of the country's parliaments in 1971. Geography, politics and changing philosophy are among the reasons for this graphic illustration of the distinct development of the two societies. The size of Australia and the residence of Aboriginal peoples in isolated communities with no centrally co-ordinated political structure made them easy to disregard. By the time the British arrived in New Zealand developments in colonial philosophy towards indigenous peoples contributed to a decision to take New

¹⁶ Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*, 7.

Zealand by negotiation. It was also of importance that the Treaty of Waitangi gave Maori the rights and privileges of British subjects.

In the twentieth century the Maori presence allowed the Fraser Government to hold office for its final three years between 1946 and 1949, and eight years later Walter Nash was able to form a government because, as under Fraser, his Labour Party held all four Maori seats. Love¹⁷ suggested that although the Maori members remained loyal to their party it was a pragmatic loyalty rather than one of genuine political commitment. The Maori members had received limited gains, which they knew would be lost if they brought the government down and allowed the less sympathetic National Party to govern. Although they held the balance of power it was a power that was constrained by a political climate that gave Maori few options.

In New Zealand, guaranteed Maori representation in the Parliament continues to be resented by some within the wider community who sees that representation as an unnecessary privilege.¹⁸ In a speech in 2003 the leader of the National Party, a lay Catholic, Bill English ended the bi-partisan support for guaranteed parliamentary representation that had existed between the two largest political parties. Bi-partisan support for this issue and for Treaty of Waitangi settlements has ensured that racially motivated opposition to reconciliation has found expression only on the racist fringe of the political spectrum. In ending that long standing bi-partisan agreement English has potentially re-opened a space for the expression of anti-Maori sentiment in the political mainstream. English argued that while Maori seats were once necessary, this is no longer so because: 'In recent decades, there has been a progressive restoration of Maori rights as

¹⁷ Ralph Love, "Policies of Frustration: The Growth of Maori Politics: The Ratana/Labour Era". PhD, Victoria University of Wellington, 1977, 487.

¹⁸ English, *Unity and Development Are Better Than Division and Dependency*.

citizens.’¹⁹ Secondly, English noted that as Maori comprise about 14% of the population and hold about 15% of the seats in Parliament, the level of representation is fair. Further, English argued, it is necessary to show

that we can offer to each citizen sufficient freedom and integrity that they can be represented, have their say and reach their potential.²⁰

That is a positive aspiration stated in a climate in which the boundaries of secular debate have shifted very much towards the indigenous interest, just as has happened in Australia. But as in Australia there remain elements of political and ideological hostility towards those interests. Further, the inferior Maori socio-economic status indicates that at the present time New Zealand does not offer that freedom and integrity to each citizen, and while it is true that in the current Parliament Maori are proportionally represented, one must assume an ongoing absence of prejudice if that is to continue under New Zealand’s current electoral system. Such an assumption is ill-conceived. If guaranteed Maori representation in Parliament is a privilege it is one made necessary by the fact that since Parliamentary democracy began in New Zealand, mainstream voters and political parties have included few Maori in Parliament as members representing general seats.²¹ This figure is indicative of a reluctance within society to allow Maori a place in government similar to the reluctance of Australian voters to include representatives of its indigenous communities in its parliaments. The inability of indigenous peoples to gain election to parliaments in significant number through the votes of white electors in both Australia

¹⁹ Bill English, *Address to the National Party Lower North Island Regional Conference* (Solway Park Hotel, Masterton, 4 May 2003: [cited 15 May 2003]); available from <http://www.national.org.nz/wcontent.asp?PageID=100014891>.

²⁰ Ibid.

²¹ Carol, Gisborne 1893; Austin, Awarua 1975; Couch, Wairarapa 1975; Winston Peters, Hunua 1979 and Tauranga 1984; Ian Peters, Tongariro 1990; Pettis, Wanganui, 1993 and Beyer, Wairarapa 1999.

and New Zealand has hindered the advancement of self-determination. Guaranteed indigenous parliamentary representation ensures that indigenous peoples can not be completely excluded from participation in the political process, particularly on matters of immediate and direct relevance to them. Although New Zealand and more recently Australia offer indigenous peoples the legal right to seek election to parliament, the fact that few, other than those elected from Maori electorates have actually gained election indicates that there are significant societal barriers to indigenous peoples seeking election as representatives of predominantly white constituencies. Guaranteed Maori parliamentary representation guards against democracy becoming for Maori, a 'tyranny of the majority' - a likely effect of democratic pluralist systems of government.

The Maori people and their political traditions have so far had little influence on the development of democratic government in New Zealand. Democracy is a product of the Western European tradition.... even the particular characteristics of New Zealand democracy which distinguish it from democracy in some other western societies, for instance its relative populism, are the result of factors within Pakeha New Zealand Society rather than Maori society.²²

Mulgan argued that this remains true in spite of a specific Maori voice through, for example,

the Maori seats in Parliament, the New Zealand Maori Council and the Waitangi Tribunal because from the traditional Maori perspective, the New Zealand political system appears overwhelmingly Pakeha and alien.²³

Reconciliation in the New Zealand Context

Reconciliation, in the New Zealand context, was explicitly endorsed by John Paul II at the time of the country's sesquicentennial commemorations in 1990. During that year a Solemn Mass of Reconciliation was celebrated in Christchurch. John Paul was represented by a Papal Legate Extraordinary, Godfried Daneels, Archbishop of Brussels.

²² Mulgan, *Democracy and Power in New Zealand*, 50.

²³ *Ibid.*, 50.

Daneels' purpose was to focus on general ideas with their political application being 'the duty and privilege' of the laity.

What I would like to do is reflect on the social doctrine of the Church... first, we should recognise openly the right of minorities to exist and to be fully themselves. This implies that majorities renounce their feelings of exaggerated superiority and that they see the value and the culture of indigenous people; and finally, that they renounce any remaining effects of former colonisation.²⁴

Daneel's was promoting reconciliation as a theological objective, as Basil Meeking²⁵ had done the previous year.

It is not the role of the Church to specify the political solutions which must be sought.²⁶

But:

Because we are followers of Jesus Christ and members of his Catholic Church we have insights to bring to 1990. Indeed we have an obligation to involve ourselves in the present problems of our country in light of the Christian principles expressed in the social teaching of the Church... it is the necessary task of the Church to promote the peace and justice and reconciliation which are a sign of God's future Kingdom and to call for that change of heart in men and women and in social arrangements which will lead already in this life to greater justice, peace and reconciliation among human beings and in society. By attending to the implications of its social teaching the Church will stimulate critique of the principles and structures which underlie the solutions being offered.²⁷

In Australia the Church 'stimulated critique' by applying a theologically informed understanding of reconciliation to political solutions to land rights and the aftermath of the removal of indigenous children from their families. In New Zealand vocal lay Catholic political activists, but generally not the clergy and never the hierarchy, have instead accepted political solutions and constructed theological interpretations to present biculturalism as an inescapable conclusion to be drawn from one's Catholic faith and to

²⁴ Godfried Daneels, "Homily", Cathedral of the Blessed Sacrament, Christchurch, 1990. In *The New Zealand Tablet* 16 May 1990, 5.

²⁵ Basil Meeking, "Homily", Cathedral of the Blessed Sacrament, Christchurch, 26 November 1989.

²⁶ Ibid.

²⁷ Daneels, 1990, 5-6.

present the Treaty of Waitangi as an unproblematic source of resolution to the social and economic problems faced by Maori. In his attention to reconciliation Meeking however, was indicating that the Church's interest properly arises from its theology, not from any political ideology. Ironically this understanding allowed Meeking to remain 'aloof from politics' in a strict sense, but not 'aloof' from injustice in a way that Pompallier's interpretation effectively required. Meeking's expression of an official Catholic position highlights a difference in approach between the Catholic and Anglican Churches. Both churches are unquestionably supportive of reconciliation. The Catholic hierarchy has expressed that support in unmistakably theological language. In contrast the *Constitution of the Anglican Church in New Zealand, Aotearoa and Polynesia* draws on human law to justify its position and uses contemporary political philosophy to establish the context in which it will promote its aspirations for Maori:

by the Treaty of Waitangi, signed in 1840, the basis for future government and settlement was agreed, which Treaty implies partnership between Maori and settlers and bicultural development within one nation.²⁸

The Anglican Church's reference to 'bicultural development within one nation' is inconsistent with the self-description in its constitutional title as a church within 'New Zealand and Aotearoa' rather than the commonly used and clearly bicultural 'Aotearoa-New Zealand'. The term New Zealand and Aotearoa implies two nations and could thus be interpreted as a rejection of biculturalism for a bold assertion of an advanced degree of self-determination. Such an assertion is however tempered by frequent references to biculturalism and not self-determination in Anglican discourse.²⁹ The Anglican adoption

²⁸ *Constitution of the Anglican Church in New Zealand, Aotearoa and Polynesia* (6 [cited 25 May 2003]); available from <http://www.anglican.org.nz/CanonsReprint/English.pdf>.

²⁹ See for example the Anglican Diocese of Christchurch bicultural policy which is cited later in this Chapter.

‘within the Church structure [of] the Treaty partnership relationship’,³⁰ when the Treaty is in fact a matter of Crown, iwi and hapu institutional relationships suggests a relationship with secular law and politics that the Catholic Church no longer admits. An acceptance of this kind of relationship gives a Church more freedom to act as a political lobby group, but also exposes it to external pressures and prevailing political fashions in the same way that any non-religious lobby group might be pressured.

An examination of several statements by the Methodist and Presbyterian Churches shows closeness in general principle to the Catholic and Anglican Churches. These Churches’ public comments are, however, distinguishable from some Catholic documents in that they do not state the theological basis of their positions rather they offer secular political analysis and comment on political issues.³¹ The Catholic hierarchy therefore, stands apart from other churches by its willingness to draw on theological tradition to interpret the ‘signs of the times’.

Reconciliation has been given substantive legal and political effect in New Zealand through the Crown apologising and making recompense for breaches of the Treaty of Waitangi. In 1995, for example, the Crown reached a ‘full and final’ settlement with the Waikato people over earlier unjustified land confiscation. The *Waikato Raupatu Claims Settlement Act 1995* was the first of many settlements that demonstrated that symbolic

³⁰ Anglican Diocese of Christchurch, *Diocese of Christchurch Bicultural Policy* (1998: [cited 25 May 2003]); available from <http://www.chch.anglican.org.nz/bi-cultural/BiculturalPolicy1998.html>.

³¹ See for example Joint Methodist-Presbyterian Public Questions Committee, “Constitutional Reform in Aotearoa”, (May 1991), Joint Methodist-Presbyterian Public Questions Committee, “Response to the Crown Submission on the Maori Fisheries Bill”, (15 May 1989), Joint Methodist-Presbyterian Public Questions Committee, “Submission to Hon. Koro Wetere on Te Urupare Rangapu”, (December 1988), Joint Methodist-Presbyterian Public Questions Committee, “Submission to the Parliamentary Committee on the Maori Fisheries Bill 1988”, Joint Methodist-Presbyterian Public Questions Committee, “Submission to the Parliamentary Maori Affairs Select Committee on the Ministry of Maori Development Bill”, (November 1991), Joint Methodist-Presbyterian Public Questions Committee, “Tino Rangatiratanga”, (July 1993). Joint Methodist-Presbyterian Public Questions Committee, “Towards a Maori Criminal Justice System”, (October 1995). Joint Methodist-Presbyterian Public Questions Committee, “Politics Not Justice: The Government’s Treaty Settlements Policy”, (1999).

gesture does not exclude ‘practical’ reconciliation of tangible substance, as John Howard suggested in the Australian context. The Waikato settlement was the first agreement between the Crown and an iwi under procedures introduced in 1985, allowing the Waitangi Tribunal to investigate grievances dating back to 1840.³² The settlement provided for the return of confiscated land and for monetary compensation. This represented both reparation and a ‘sharing of the fruits of earlier sins’. But, significantly the *Waikato Raupatu Claims Settlement Act 1995* began with an unreserved apology to the Waikato people. There was no government argument, as there has been in Australia, about who should say ‘sorry’ to whom and for what. It was accepted that it was for the Crown to say ‘sorry’ to Waikato for specific incidences outlined in the Act. In this way the government led by a lay Catholic, Jim Bolger, accepted what the Howard Government dismissed – that saying ‘sorry’ is accompanied by a requirement to redress the consequences of injustice.

This government acceptance of the propriety of a formal apology did not however suggest a full public sympathy with the settlement process. As in the case of Australian ‘Sorry Days’, the New Zealand ‘sorry day’ which describes the day on which each Treaty settlement is finalised, reflects an important step towards reconciliation, but they also create political space for the expression of a deep-seated prejudice that causes some Pakeha New Zealanders to resent any transfer of resources from the Crown to Maori.

The importance of symbolism was further demonstrated by the Act, at Waikato’s request, being given royal assent by the Queen rather than the Governor General. The apology was for the war between the Crown and Waikato in 1863, and for the loss of life resulting from what the Crown acknowledged was an ‘invasion’. The Crown apologised for the

³² *Treaty of Waitangi Amendment Act 1985*. Section 3.

confiscation of land and its ‘crippling impact on the welfare, economy and development of Waikato’.³³ The Act accepted Waikato’s contention that ‘as land was taken, land should be returned’ and that ‘the money is the acknowledgement by the Crown of their crime’.³⁴ This acceptance indicated the Crown’s acknowledgement of the legitimacy of reparation. The apology also accepted a relationship between Waikato’s dispossession and their exclusion from the benefits that settlers and their descendants gained from that dispossession.

The Crown recognises that the lands confiscated in the Waikato have made a significant contribution to the wealth and development of New Zealand, whilst the Waikato tribe has been alienated from its lands and deprived of the benefit of its lands.³⁵

Finally the apology, although not using the word reconciliation, reflected its principles and objectives.

The Crown seeks on behalf of all New Zealanders to atone for these, acknowledged injustices, so far as that is now possible, and... to begin the process of healing and to enter a new age... of co-operation.³⁶

The importance of an apology to reconciliation is reflected in its being a part of subsequent grievance settlements. In its settlement with Ngai Tahu, for example, the Crown acknowledged that it

acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngai Tahu in the purchases of Ngai Tahu land.³⁷

The apology also recognised the economic and social impact of its actions upon Ngai Tahu and expressed the Crown’s desire for reconciliation. Therefore, the Crown and those iwi with whom it has settled earlier grievances, have shown that the criteria for

³³ *Waikato Raupatu Claims Settlement Act 1995*. Part I, section 6 (3).

³⁴ *Ibid.* Part I, section 6 (4).

³⁵ *Ibid.* Part I, section 6 (5).

³⁶ *Ibid.* Part I, section 6 (6).

³⁷ *Ngai Tahu Claims Settlement Act 1988*. Part II, section 6 (2).

reconciliation can be met in the relationships between governments and indigenous peoples. While political and economic circumstances make full reparation for everything that has been lost unlikely, and in most cases unjustifiable because its cost would be contrary to the common good, reparation to the fullest extent possible is still demanded by reconciliation.

The New Zealand apologies demonstrated the symbolic as well as economic and political significance of reconciliation. Some within the Australian Church have expressed concern that the importance of symbolism is sometimes rejected. For example, when in 1998 the Camden City Council was the only Council in the Macarthur region to decline to support a regional statement on Aboriginal reconciliation, the MacArthur Catholic Justice, Development and Welfare Network wrote to the Council arguing that ‘one cannot underestimate the importance of symbolic actions’. The Network’s reasoning was that:

The main purpose of such symbolism is to acknowledge formally that wrongs have occurred and to express willingness on all sides not to continue to repeat these wrongs.³⁸

The Network’s letter suggested that the Council’s position gave the appearance that it was not concerned about what had happened to Australia’s indigenous peoples. The letter suggested that the Council develop a commitment to building a more united and more just nation because

we agree with the Governor General, Sir William Deane, that Australia will be a diminished nation if it cannot achieve reconciliation between its Aboriginal and non-aboriginal citizens.³⁹

For the Catholic Church, Treaty settlements are important because they give political effect to ideals which are clearly discernable in its theology. Treaty settlements have at

³⁸ Macarthur Catholic Justice Development and Welfare Network, “Letter to Camden City Council”, 23 March, 1998, 1.

³⁹ Ibid., 2.

once made apologies, without any suggestion that such is a response to guilt that might be apportioned to the present day descendants of those who perpetrated the initial injustice, and provided for tangible acts of compensation. Treaty settlements also give effect to the Catholic view that the right to development is much more than a right to social charity, even though justice does not necessarily require reparation to the extent that a strict assessment of the full extent of a claimant's financial loss might suggest. The burden such a financial requirement would impose on the whole community could compromise the common good.

Biculturalism

The new political climate that emerged during the 1970s and 1980s was indicative of a growing Maori assertiveness. In response to that assertiveness and in recognition of the legitimacy of Maori grievance both Maori and Pakeha political elites adopted biculturalism as a philosophical framework around which better relationships – reconciliation – between Maori and the Crown, and Maori and Pakeha, might be constructed. Academic commentator Andrew Sharp argues that there are two types of biculturalism; bicultural reformism and bicultural distributivism. Bicultural reformism has been government policy since the acceptance of the Puao-te-atatu report in 1986 which recommended strategies to overcome institutional racism, and to incorporate a Maori cultural dimension into the operations of the Department of Social Welfare. The report's broad principles have become the basis of bicultural policies across the public sector. These bicultural practices have sometimes been superficial, involving little more than giving departments of state Maori names, and have not contributed to Maori self-

determination. There is however potential for the philosophy to be applied in ways supporting that objective.

The lay Catholic, Justice Temm, gave a useful example of how bicultural reformism can be particularly lacking in real substance.

A letter written by some civil servant that is culturally offensive is not cured by the fact that it appears under the letter head of a department of state which also describes itself by a Maori name.⁴⁰

Bicultural distributivism is quite different and has very little political support. This concept arose out of the rejection of the principle of multicultural distributivism which 'suggested distribution of things according to the membership size of the *ethnie* in question'.⁴¹ This would provide Maori with access to a percentage of the nation's resources, political influence and positions in the public sector equal to the Maori percentage of the total population. In contrast bicultural distributivism argues that there is a

need to restore the principle of one people, one vote in the major institutions of Aotearoa to give recognition to a bicultural heritage as a nation built upon the Treaty of Waitangi.⁴²

The practical application of this was suggested by a Maori Consultative Group's report on Maori participation in local government to the Minister of Local Government, Michael Bassett, in 1988. The Group proposed that

in accordance with the principle of rangatiratanga, there should be equal representation of tangata whenua and tauwi on all units of local government... On the same principles there should also be a Maori local government commission working in parallel with the Pakeha one.⁴³

⁴⁰ Temm, "Biculturalism and the Rights of Minorities".

⁴¹ Andrew Sharp, *Justice and the Maori: The Philosophy and Practice of Maori Claims in New Zealand since the 1970s*, 2nd ed. Auckland; New York: Oxford University Press, 1997, 230.

⁴² New Zealand Section of the International Commission of Jurists, *Bill of Rights Seminar*. In Sharp, *Justice and the Maori*, 233.

⁴³ In Sharp *Justice and the Maori*, 233-234.

Bassett rejected this idea out of hand, largely on the grounds that it was inconsistent with the democratic principle of one person one vote of equal value.⁴⁴

The Church in Bicultural Political Context

The Church's interest in Maori aspiration originated with Gerry Arbuckle's⁴⁵ response to the Second Vatican Council as it related to Maori people. In a paper commissioned by the Archbishop of Wellington, and published in 1969 *The Maori in the Church: a Survey of the Maori Mission in the Archdiocese of Wellington*, Arbuckle explored the pastoral needs of the Maori people of the Archdiocese. Arbuckle followed this in 1970 with *The Maori in Crisis*. Owen Snedden, Auxiliary Bishop of Wellington, described the report, which reflected a move away from the acceptance of racial harmony to a more comprehensive and accurate analysis of the Maori situation, as a 'blueprint for action'.⁴⁶

Arbuckle wrote that:

It is time this myth of successful assimilation was broken apart... it is time that justice and charity prevailed. Far too many people are suffering - and will continue to suffer - as long as this ignorance continues... in consequence we may have to cast aside prejudices... we may even have to admit that most of us suffer that characteristic Pakeha trait of confusing unity with uniformity...⁴⁷

Arbuckle believed that if the human dignity which the Church taught was owed to Maori people was to be realised, then Maori would have to be given access to the necessary economic, social and educational conditions. He argued that if the political solution to these problems required special government assistance, then that should happen as a demand of justice.⁴⁸ Arbuckle's thinking received broad acceptance among both the

⁴⁴ Ibid., 234.

⁴⁵ Gerry Arbuckle is an anthropologist and priest of the Society of Mary. His publications in 1969 were pastoral responses to the Second Vatican Council's implications for Maori mission. They were influential in changing the direction of Church approaches to Maori.

⁴⁶ *Whiti Ora* June 1972, 8.

⁴⁷ Arbuckle, "The Maori in Crisis", 7.

⁴⁸ Ibid., 10.

hierarchy and the newly created Commission for Justice Development and Peace,⁴⁹ and since 1970 his analysis has informed much of the Church's work in Maori policy debate. This development in New Zealand Catholic thinking coincided with Australian Catholic Bishops' Conference statements, encouraged by Paul VI, which recognised the relationship between religious objectives and political means in an indigenous Australian context. Positive Episcopal attention to Maori aspiration was given in 1971, the International Year against Racial Discrimination, by Brian Ashby, Bishop of Christchurch, and Episcopal deputy for Justice and Peace. Ashby's comments were firmly grounded in Catholic theology, not political fashion, which characterises the comments of some later Catholic commentators, yet did not avoid the political implications of that theology.

All men are brothers, for the self sacrifice of Christ redeemed us to become sons of the same Father. Such has always been the teaching of the Catholic Church. The Justice and Peace Commission of the Catholic Church in New Zealand affirms this as the Christian basis of all relations between peoples of different races.

New Zealand has developed as a multi-racial society. Racial justice within it is as yet imperfect. New Zealand has an opportunity and a duty to demonstrate to the world that a just multi-racial society is possible. It is imperative that as Christians in New Zealand, our beliefs in equal human dignity are expressed in our attitudes and actions...

Opportunities must be created for the wider teaching and learning of Maori language as the key to a culture in which we may all share and to which Maori people have the right by inheritance.⁵⁰

Ashby expressed a theological position and the practical consequential propriety of broadening opportunities for the teaching and learning of the Maori language without reference to biculturalism or to the Treaty of Waitangi, indicating that in spite of

⁴⁹ The Commission for Justice, Peace and Development was established by the New Zealand Catholic Bishops' Conference under Canon 451 for the purpose of furthering the Church's mission in the areas of justice, peace and development. The same functions have subsequently been carried out by the Commission for Evangelisation, Justice and Development and latterly by Caritas Aotearoa-New Zealand.

⁵⁰ Brian Ashby, "Media Release for the Inauguration of the International Year against Racial Discrimination", ACDA Del 24-4/7, 1971.

biculturalism's later popularity and the Treaty's later widely accepted legal and moral status, there remains for the Catholic Church an understanding of humanity that exists above and independently of whatever philosophical values and legal structures by which a society chooses to conduct its affairs. The same point was evident in the simple yet significant observation of the Auckland Diocesan Pastoral Council in 1974, which noted independently of prevailing political philosophy:

The Maori people have their own values, philosophy and ways of doing things. They must have opportunity to make decisions according to their own social customs. Such decisions will be accepted and respected by the people.⁵¹

Certainly, the Treaty of Waitangi has provided opportunities for this goal to be realised to some extent, and biculturalism has created a philosophical context which makes the goal acceptable to a certain degree, but neither are the source of its moral legitimacy, at least from a Catholic perspective. Arbuckle was therefore incorrect when in 1988 he described biculturalism as 'not a new fad' but 'a demand of justice'.⁵²

The Church Embraces Biculturalism

Even Durning's thinking had developed significantly since 1962.

The government has set the stage for a political bicultural development of New Zealand. It really would have been more fitting that we had been the initiators of such a general plan as we have a social doctrine that tends in that direction.⁵³

Durning was referring specifically to the teaching that all peoples have a right to development,⁵⁴ which biculturalism can, but does not automatically allow.

As early as 1972 biculturalism's broad principles had been advanced by *Whiti Ora*.

⁵¹ Auckland Diocesan Pastoral Council, "Report: Maori and Polynesian People in the Auckland Diocese", ACDA Mac 60-1, 1974, 2.3.

⁵² Gerry Arbuckle, "Biculturalism - a Demand of Justice", Unpublished, 1988.

⁵³ J Durning, "Biculturalism Today", Unpublished Paper. MAW. ACC 202, Undated.

⁵⁴ John Paul II, *Sollicitudo Rei Socialis* (Vatican City., 1987: 32 [cited 3 February 1998]); available from <http://www.ewtn.com/library/ENCYC/JP2SOCIA.TXT>.

Many people are realising that there is more than one culture in New Zealand. In fact there are many cultures here and they should all be respected. But, in particular, there are two races who signed the Treaty of Waitangi. Justice requires that Maori and Pakeha must both be recognised in New Zealand. This means that any New Zealander with a proper sensitivity will at least respect the cultures of both the Maori and the Pakeha. This means that he must know at least something of the culture different from that into which he was born. He may even become the complete New Zealander; a person who is equally at home in both cultures.⁵⁵

This form of biculturalism can exist as a cultural expression, without necessarily requiring an adoption of political biculturalism, which has both limitations and opportunities for Maori self-determination.

In 1989, Denis Browne, Bishop of Auckland, told a meeting of participants in his Diocesan Synod⁵⁶ that:

One of the challenges I am certain that the Lord gives to us is... to be part of his commitment to address injustice. We will not be truly Church, if we do not address in this Synod such important matters as biculturalism... and so many other matters that disturb our society at the present time.⁵⁷

Browne's comments were made at a time when biculturalism was a relatively new idea offering much hope. Much of that hope has been realised, but time has also revealed its limitations, which suggests that as the addressing of injustice is an ongoing process, the 'signs of the times' must be continually reappraised, and the inability of biculturalism to fully address the aspirations of the magisterium considered. The Church's tendency to see biculturalism as a panacea for the meeting of Maori aspirations has inhibited critical consideration. It has overlooked the suggestion that just as it applies to multiculturalism, self-determination or any other secular framework, 'every social ideology contains a

⁵⁵ *Whiti Ora* September 1972, 11.

⁵⁶ A Diocesan Synod is a consultative body from time to time convened by a the Bishop of the Diocese. John Paul II, *The Code of Canon Law*, 460-468.

⁵⁷ Denis. Browne, "Address Given at the Pre-Synod Day Gathering, Auckland", ACDA Bro\AD-046. Doc 46b, 18 June 1989.

possible ambiguity'.⁵⁸ In Australia the same oversight, although within the context of a pragmatic attention to the immediately possible, contributed to an inadequate critique of the *Wik* decision from a Catholic theological perspective.

Yet biculturalism was enthusiastically supported within the Church. In 1989, for example, the Bishops' Conference suggested that 'this country was established as a bicultural state'.⁵⁹ The Treaty of Waitangi, however, does not support that assertion. Such an entity could not have arisen from the political and cultural circumstances of New Zealand as it was in 1840. Pompallier, who was present at the signing of the Treaty, and probably advised Maori against signing it,⁶⁰ saw the Treaty establishing a British State. By 1863 Pompallier was counselling acceptance, although not necessarily endorsing the nature of the British State. His advice was to

leave the rudder of the natural life to the Queen in London and to her Governor at Auckland, as you have left the rudder of your souls to the Pope at Rome, and your Bishop at Auckland.⁶¹

Pompallier's judgement seems to have come from a pragmatically motivated assessment of contemporary political circumstance. He thought that it was not in the Maori interest to resist the increasingly negative aspects of settlement because he did not believe that Maori could successfully compete in war with the British. He could also see the same positive aspects of European settlement that encouraged Maori to sign the Treaty in the first instance.

Let the Maoris avoid the foolish rashness to fight against the white; for the little cannot vanquish the great; the canoe made of wood, cannot break an iron vessel; the

⁵⁸ Paul VI, *Octogesima Adveniens*, 27.

⁵⁹ Peter Zwart, Chris Orsman, and New Zealand Catholic Bishops' Conference. Catholic Office for Social Justice., *Church in the World: Statements on Social Issues, 1979-1997 by New Zealand's Catholic Bishops* Wellington, N.Z.: Catholic Office for Social Justice, 1997, 18.

⁶⁰ Orange, *The Treaty of Waitangi*, 57.

⁶¹ Pompallier, "Letter to the Catholic Fathers of Maori Tribes", 5.

ignorant cannot teach the learned. Is it not far better for the country of New Zealand itself to have a numerous population, composed of good men issuing from both races, the black and white? Is it not better again to see its ports covered with vessels bringing merchandise and friends... many towns with industrial and commercial trade, to have fertile farms replacing the thorns and shrubs of its vast deserts? Yes, may wheat and all kinds of produce abound in New Zealand.⁶²

The instructions William Hobson received from the British Colonial Office indicated that the British did not consider a bicultural relationship nor did they see Maori as seeking one. This is unsurprising given that the indigenous people, to whom the British applied the label Maori for the sake of convenience, did not see themselves as a single political or cultural community.

The original inhabitants of New Zealand did not refer to themselves as Maori; rather they were Rangitane or Ngati Apa or Tuhoe or any of forty or more tribes... Often the culture of the newcomers, because of its stark contrasts, provided Maori with a reason for emphasising their common features, rather than their tribal differences, if only when interacting with the settlers. Even then it was an identity more obvious to the newcomers, and in truth largely determined by them, rather than the true reflection of any sense of homogeneity on the part of Maori people.⁶³

Nevertheless, the absence of a political homogeneity was certainly noticed by the British Colonial Office, which suggested that the British could not have had a bicultural relationship in mind, because they could not identify a necessary single Maori political unit. The Treaty of Waitangi was not signed once, but several times.

We acknowledge New Zealand as a sovereign and independent state, so far at least as it is possible to make that acknowledgement in favour of a people composed of numerous, dispersed and petty tribes, who possess few political relations to each other and are incompetent to act, or even to deliberate in concert.⁶⁴

Biculturalism is based on the more recent assumption that Maori have developed into a single homogenous political identity and that the Crown, although representing the New

⁶² Ibid., 7.

⁶³ Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*, 53.

⁶⁴ Marquess of Normanby, "Instructions to Captain William Hobson, 14 August 1839", Great Britain: Parliamentary Papers 1844, 16/37., 1844.

Zealand population as a whole, does so from a single cultural perspective. As the once more culturally homogenous non-Maori New Zealand population becomes increasingly diverse this assumption becomes less credible. Treating Maori as one entity overlooks the importance of iwi and hapu, which are required by the principle of subsidiarity and indeed by the Treaty itself to be respected as political units within modern Maori society. The value of the suggestion of a bicultural state, however, is that it assumes that whatever the nation's political and institutional arrangements there will be a place for Maori within those structures. Such an assumption is not as readily accepted in the case of indigenous Australians.

As Sharp's description of biculturalism indicates, while the concept is broad enough to accommodate a range of political solutions to the objective of advancing Maori self-determination, biculturalism can be manifested in ways that limit self-determination. Therefore Arbuckle's argument that biculturalism is a 'demand of justice' is not a valid representation of Church teaching. A better expression of the Church's thought might be that if biculturalism is the state's properly chosen political goal, then it is the Church's role to argue that the policy be implemented in a way that meets the 'demands of justice'. This distinction is important as the Church does not claim the authority to promote specific state policy options, which is what Arbuckle advanced.

It is also clear from Durie's description of the main themes of the 'Decade of Maori Development', which began with the Lange government's Hui Taumata in 1984, that Maori do not see biculturalism as a simple path to the fulfilment of their aspirations. While biculturalism was acknowledged, it was one of seventeen implications of six themes noted by Durie. Among the more significant for their focus beyond biculturalism

were: the settlement of treaty claims, Maori self-determination, constitutional review, Maori mana motuhake, tribal development, development of an economic base, less reliance on the state, elimination of social and economic disparities, and the development of the Maori language and educational systems.⁶⁵

A desire for the principles of subsidiarity to be recognised was clear. Maori wanted a less intrusive, less controlling and more distant State. In his opening address to a National Maori Leadership Hui (meeting) at Turangi in 1989, Max Mariu,⁶⁶ auxiliary Bishop of Hamilton, and the only Maori to have been ordained bishop by the Catholic Church, called for a Maori leadership ‘independent of government’ to be the ‘custodians of Tino Rangatiratanga’.⁶⁷

The Hui Taumata indicated that Maori also wanted Maori solutions to Maori concerns, not bicultural solutions. Rather than biculturalism, a ‘relative yet relational autonomy between peoples, each of which is autonomous in their jurisdiction’⁶⁸ might better meet Maori aspirations, as:

The politics of protest bristle with a growing Maori assertiveness over their relational status as ‘junior partners’ in a bicultural project.⁶⁹

The variety of Church positions on biculturalism reflects the absence of a coherent and consistent appreciation of the political philosophy, and of how it can and cannot be used to give expression to religious objectives. This makes it difficult for the Church to promote usefully biculturalism as a blueprint for the realisation of Maori aspirations.

⁶⁵ Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*, 8.

⁶⁶ Max Mariu is a priest of the Society of Mary. He became auxiliary Bishop of Hamilton in 1988.

⁶⁷ Max Mariu, Opening Address to the National Maori Leadership Hui, Turangi, 23 June 1989. In the sense and context of Mariu’s usage, Tino Rangatiratanga can be understood as self-determination.

⁶⁸ Roger Maaka and Augie Fleras, “Engaging with Indigeneity: Tino Rangatiratanga in Aotearoa”, in *Political Theory and the Rights of Indigenous Peoples*, ed. Duncan Ivison, Paul Patton, and Will Sanders. Cambridge; Melbourne: Cambridge University Press, 2000, 97.

⁶⁹ *Ibid.*, 98.

Although Arbuckle's work reflects an interest in the advancement of Maori well being, his overly enthusiastic acceptance of biculturalism is not convincing. Arbuckle argued that:

Once society accepts that Maori rights have frequently been ignored we will understand that biculturalism in education, job opportunity, ownership of land, worship is a fundamental requirement of justice.⁷⁰

These are examples of bicultural reformism. Bicultural reformism is not a 'fundamental requirement of justice' and in some circumstances can in fact undermine justice. Bicultural reformism accepts the institutions of the majority culture and assumes that reforms to these can make them responsive to Maori, while surrendering little in the way of the cultural practices and values of the majority. Bicultural reformism in education could mean little more than token acknowledgement of a Maori presence. Biculturalism in the workforce has seen more generous provision of tangihanga⁷¹ leave in state sector employment contracts, which may be advantageous in itself, but it does not advance Maori autonomy, nor respect the kawanatanga and rangatiratanga of iwi. Biculturalism is thus not in itself a 'demand of justice', rather it is a political philosophy that may or may not contribute to justice for Maori.

It is not clear what Arbuckle meant by biculturalism in job opportunity. However, it is clear from successive Household Labour Force Survey and census data that Maori have greater difficulty in obtaining work than the general population, and that while in the

⁷⁰ Arbuckle, "Biculturalism - a Demand of Justice".

⁷¹ Tangihanga is a Maori ceremony for the mourning of death and usually takes place over at least three days.

workforce Maori incomes are lower than those of non-Maori.⁷² For Maori, labour market policy is not usefully addressed in the broad but vague language of biculturalism. Instead:

Society must aim towards the elimination of all labour market disparities for Maori: income, job status and satisfaction, and location between the various segments of the labour market. The true test of employment policy is the contribution of that policy to the reduction and ultimate elimination of those employment disparities.⁷³

The objective of such a policy is not to further biculturalism, but to provide Maori individuals and families with the means to greater levels of autonomy and to promote the rangatiratanga of the lowest social units of the community. Such an objective is consistent with the arguments made in the Commission for Justice and Peace's submission to the parliamentary Labour Select Committee when it considered the *Employment Contracts Bill 1990*. The submission referred to Leo XIII's *Rerum Novarum*, an encyclical letter which

pleaded with governments, capital and industry to abolish economic injustice and to establish, in industry, working conditions befitting the dignity of persons, as well as sufficiency of income for family life and old age.⁷⁴

Biculturalism in land ownership is another concept that is difficult to identify. Traditionally Maori land was owned communally. This made land acquisition by settlers difficult, because it was not always clear who had the authority to sell land. So for this reason, and because it was considered that the imposition of individual title on Maori landowners would advance Maori assimilation into white society, legislation was introduced to give effect to that objective. Further State action followed which facilitated the ongoing alienation of land. However, in 1993 the enactment of *Te Ture Whenua*

⁷² See the 1983 *Census of Populations and Dwellings* and 1983 Household Labour Force Surveys for statistical information concerning the time at which Arbuckle wrote.

⁷³ Dominic O'Sullivan, *Maori and the Labour Market: An Analysis of Manatu Maori's Maori and Work: The Position of Maori in the New Zealand Labour Market*, Hamilton N.Z.: Centre for Maaori Studies and Research, University of Waikato, 1999, 19.

⁷⁴ Catholic Commission for Justice and Peace, 199, 10.

Maori saw a more flexible approach to Maori land ownership adopted. But biculturalism is still not a demand of justice; it is merely a political philosophy that is broad enough to allow limited Maori autonomy, while the Crown maintains ultimate control. Instead, as Brennan has argued in Australia, indigenous welfare might better be advanced by the recognition of a self-determination which affirms a right to manage Maori affairs on Maori land as autonomously as possible, with the only qualification being that there is an obligation to manage those affairs without injury to the common good.⁷⁵

Biculturalism has however been useful in that it has unquestionably placed Maori interests on the political agenda, which contrasts with the Howard Government's reluctance to allow an indigenous 'right to negotiate' over the granting of mining licences on indigenous land, for example. Further, where complete self-determination has been politically unattainable, or not justified by the common good, biculturalism has provided a framework for a shared input into policy making and policy implementation between Maori and the Crown. One example is in the health sector where opportunities for Maori health providers to receive government funding to facilitate service delivery to Maori communities, have become an accepted part of the health system. Another example is the implementation of the *Resource Management Act 1991*, which although attracting Maori reservations,⁷⁶ is a worthwhile starting point. The Act requires local authorities to ensure a Maori input into resource management decision-making. The Act requires recognition of the principles of the Treaty of Waitangi⁷⁷ and consideration of 'the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu

⁷⁵ Brennan, "Social and Political Influences on Aboriginal Spirituality", 95.

⁷⁶ Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*, 28-34.

⁷⁷ *Resource Management Act 1991*. Section 8.

and other taonga'.⁷⁸ The Act affords iwi the opportunity to develop management plans that address the management of natural resources within an iwi's traditional boundaries. These plans must be taken into account by local authorities when making relevant policy decisions. However, as Durie explained.

What was less certain, however, was how these documents would be received by local authorities. While they provide a basis for consultation and discussion, iwi sometimes feel that their plans have to be more or less consistent with the wider district plan to be recognised at all. Nonetheless, some iwi have prepared plans which leave no doubt about their role in environmental management.⁷⁹

Durie also argued that the *Resource Management Act 1991* demonstrates the gradual emergence of a 'bicultural jurisprudence' in New Zealand,⁸⁰ which is similar to the High Court of Australia's ruling that Aboriginal customary law should be considered in native title cases. However, like biculturalism generally, the development of a bicultural jurisprudence may be worthwhile, but will not in itself meet a growing Maori demand for the greatest degree of self-determination possible.

Biculturalism and Catholic Political Activism

Unlike in Australia where a theologically informed understanding of reconciliation has motivated a Catholic religious activism, the New Zealand experience is that as the secular political process created space for the Treaty of Waitangi to provide a legal and political framework around which both symbolic and tangible expressions of reconciliation could be made, political rather than religious activism in support of indigenous aspiration became prominent with the Church. Certain Church bodies have subsequently allowed political rather than religious activism to become their vehicle of expression, suggesting that the Church is in fact very much 'of this world'. Church contributions to debate about

⁷⁸ Ibid. Section 6e.

⁷⁹ Durie, *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*, 30-31.

⁸⁰ Ibid. 31.

the Treaty of Waitangi's meaning and an insufficiently critical embracing of biculturalism – an associated political philosophy - have highlighted an unproductive diversion from the Church's own magisterium - a comprehensive body of thought that is supportive of reconciliation, and the advancement of Maori autonomy and self-determination.

The development of a bicultural jurisprudence is a legitimate response to the growing acknowledgement accorded the Treaty of Waitangi. However, it is a development that arises from recent legislative and judicial decisions. It does not arise from the suggestion that New Zealand was established as a bicultural state, nor does it arise from the Catholic activist Sonia Cheyne's argument made in an address to the Dunedin Catholic Women's League that 'New Zealand should have been a true bicultural country from its inception'.⁸¹ In 1840 this was an unlikely objective. A politically shallow and theologically illegitimate⁸² comment on the rectification of breaches of the Treaty of Waitangi further discredited Cheyne's analysis.

If we are not responsible for the crimes committed by the governments that our forebears elected, who is?⁸³

The responsibility of present day Pakeha New Zealanders is not for the 'crimes' of their forebears, but to provide modern solutions and compensation for the continuing impact of those 'crimes', which can be achieved to a substantive degree through the Treaty settlement process. The use of emotive political rhetoric weakens the Catholic contribution to political debate, and runs the risk of alienating support for the Church's

⁸¹ Sonia Cheyne, "Here I Am Lord, in 1990: Our Rights and Responsibilities under the Treaty", Address to the Dunedin Diocesan Conference of the Catholic Women's League, 1990 In *New Zealand Tablet* June 13 1990, 10.

⁸² Prowse, "Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion", 118.

⁸³ Cheyne, "Here I Am Lord, in 1990: Our Rights and Responsibilities under the Treaty" 1990, 10.

aspirations for Maori people. It also provides those unsympathetic to Maori interests, both within and outside the Church, a strong platform from which to discredit Church arguments. That platform was further strengthened with a similar emotive shallowness from the Commission for Justice, Peace and Development (JPD) when it commented on changes to the law relating to guaranteed Maori parliamentary representation.

JPD supported the change to the law determining the number of Maori parliamentary seats and considered that

this historical error where the original seats were fixed at four is the source of a serious injustice to Maori political aspirations.⁸⁴

However, JPD's solution to this problem was in direct contrast to the magisterium. JPD proposed to the parliamentary Electoral Law Select Committee, considering the *Electoral Law Reform Bill 1989* that Maori representation in the House of Representatives be based on the total Maori population with the Maori right to choose to register as electors in either a Maori or general seat removed. Maori would be compelled to vote in Maori electorates.⁸⁵ This JPD proposal would have guaranteed an increase in Maori parliamentary representation at the expense of the right of individual Maori to determine how and by whom they would be represented. JPD's position was apparently arrived at 'after consultation with Maori Catholic opinion'.⁸⁶ There is no evidence that this consultation was widespread, but there is evidence that it was not reflective of broader Maori opinion, as at the 1990 general election the greater number of Maori electors were

⁸⁴ Te Runanga o te Hahi Katorika ki Aotearoa Catholic Commission for Justice Peace and Development, "Submission to the Parliamentary Electoral Law Select Committee on the Electoral Law Reform Bill 1989". 30 November, 1989, 3.

⁸⁵ Ibid., 4.

⁸⁶ Ibid., 3.

enrolled to vote in general electorates.⁸⁷ So, the eligible Maori voters who chose not to enrol in Maori electorates presumably did not support JPD's argument. JPD was captured by political activists, which may have been among the instances which gave rise to the *Instrumentum Laboris* of the Synod of Bishops for Oceania noting in 1998 that

Bishops faced with complicated social justice issues are calling for the establishment of specialised research institutes to serve as a resource for Church leaders in making their submissions to governments.⁸⁸

The greater relative success of the Australian Church in presenting theological ideas in public discourse is a reflection of it being better resourced to carry out its own research to inform its contributions to secular policy debate. The sustained intellectually informed application of theological principle to legal and political questions that has characterised Australian Church contributions to indigenous policy debate has not been paralleled in New Zealand. Yet many New Zealand Catholics have maintained a desire to influence public policy towards the Maori interest, but in the absence of sustained theologically informed support from their Church have done so as political rather than religious activists.

JPD's desire to remove from Maori the choice of electoral roll on which to register was also ironic given that the following year it publicly rejected Church teaching on the duty to vote in parliamentary elections by supporting a National Council of Churches' call for Maori to boycott the 1990 general election. JPD's association of the Church with an election boycott was unjustifiable because the Church does not claim the authority to prescribe specific political strategies. The Church also maintains that the co-

⁸⁷ In 1990 83,019 electors were enrolled in Maori electorates, while 125,409 Maori electors were enrolled on the general electoral roll. Electoral Enrolment Centre, 2003.

⁸⁸ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 34.

responsibility of citizens to the common good creates an obligation to vote.⁸⁹ The Bishops' Conference under whose authority the Commission existed did not publicly associate itself with the call.

The emotive tone the election boycott statement adopted to attack Pakeha Members of Parliament bore greater resemblance to the language of a fringe lobby group than that of serious and informed theological assessment:

JPD abhors the shallow commitment by Pakeha politicians today in addressing the issues of justice that belong to the Treaty of Waitangi.⁹⁰

While one could argue that indeed there remained much work to be done before the 'issues of justice that belong to the Treaty of Waitangi' could be said to have been addressed, JPD's dismissal of the work of the Parliament of the day indicated an overly subjective bias. For example, the Parliament JPD ridiculed had in fact extended the jurisdiction of the Waitangi Tribunal. It had also attempted to re-establish traditional tribal structures as legal entities so that greater authority could be devolved to them - both measures that enhanced the possibility of Catholic principles being reflected in Maori policy.

New Hope for Our Society

One of the New Zealand Church's largest contributions to debates over the Treaty of Waitangi and biculturalism came in the 1985 discussion paper *New Hope for Our Society*, published by the Commission for Evangelisation, Justice and Development. The paper

⁸⁹ John Paul II, *Catechism of the Catholic Church Apostolic Constitution Fidei Depositum*, 2240.

⁹⁰ Catholic Commission for Justice Peace and Development, "Election Boycott Statement. Report of Meeting Held in Wellington, 21-23 September 1990" ACDA Bro 1, 1990.

was aimed at

helping us understand the meaning of Christ's death and resurrection and to reflect it in our daily living in New Zealand.⁹¹

The EJD paper articulated a commonly held but not particularly useful understanding of the Treaty of Waitangi, biculturalism and multiculturalism.

The Treaty of Waitangi which began the formal relationship between Maori and Pakeha, is offered for study as a stepping stone towards the understanding of New Zealand as a true multicultural society.⁹²

But

the emphasis, however, is that we are first a bicultural people. The European came to the land of the Maori and so the first relationship is with that indigenous culture.⁹³

There is shallowness to the argument that New Zealand is a bicultural, rather than a multicultural nation, and there are some within the Church who have not accepted the argument. For example in its submission to the Royal Commission on Social Policy the Board of Governors' of St. John's College, Hamilton differed from the subsequent position of the hierarchy and the developments of that position by both Smithies and the Commission for Justice Peace and Development. The Board stated that it was 'committed to biculturalism as a means to achieve multiculturalism'.⁹⁴ This statement is not an authoritative expression of Church teaching, however it highlighted some important considerations for the nature of Church contributions to policy debate. Just as biculturalism does, multiculturalism reflects just one framework in which a response to the magisterium might be developed.

⁹¹ New Zealand Catholic Commission for Evangelisation, Justice and Development "New Hope for Our Society: Discussion Kitset", 1985, 1.

⁹² Ibid., 1.

⁹³ Ibid., 1.

⁹⁴ St. John's College, Hamilton, Board of Governors, "Submission to the Royal Commission on Social Policy", Submission 2934, 1987, 6.

In his Australia Day Message in 2000 the Governor General of Australia, William Deane, adopted a view of multiculturalism, that if accepted in New Zealand would enhance the relationship between Maori and other New Zealanders, and certainly not compromise the rights of Maori. Deane argued that reconciliation between indigenous and non-indigenous was reliant on

a national ethos of mutual acceptance and respect which binds us... together, notwithstanding our diverse origins. That multicultural inclusiveness sustains our nation.⁹⁵

If New Zealand society is multicultural, it is a social phenomenon that does not alter the rights that Maori may claim, either as the descendants of Treaty signatories, or as the country's first inhabitants. Neither are these rights altered by a relationship between the Crown and other ethnic minorities. Multiculturalism, as a social phenomenon, does not imply or require a constitutional relationship between the Crown and non-indigenous ethnic minorities. The rights of minorities generally, and the rights of indigenous minorities are taught clearly by the Church. From a Catholic perspective, there are no examples of conflict between the rights of indigenous and other minorities. In New Zealand's multicultural community, the rights of Maori are exactly the same as they would be in a bicultural community. The real issue for the Church is advocating and promoting the rights of Maori as the first inhabitants of New Zealand, as they are taught by the magisterium. When the Church allows itself to become side-tracked by secular political arguments, it diverts attention from the substance and purpose of its message.

⁹⁵ William Deane, "Australia Day 2000 Message", in *Essays on Australian Reconciliation*, ed. Michelle Grattan. Melbourne: Bookman Press Pty Ltd, 2000, 9.

Ten Steps Towards Bicultural Action

In 1990, with the endorsement of the Bishops' Conference, Ruth Smithies wrote *Ten Steps Towards Bicultural Action*. The purpose of the book was

not to become informed but to act informed; not to learn about what the Church teaches but to implement it; not to deepen one's personal understanding of faith but to "do" faith in a corporate or group response.⁹⁶

Smithies' book did inform and provided a useful general introduction to Church teaching on Maori and Pakeha relationships and the place of Maori in society. However, rather than encourage consideration of different ways in which individuals might give effect to the magisterium, Smithies prescribed the 'doing' of faith. Prescription undermines the responsibility of all to think critically about public issues, guided by the magisterium, rather than directed by another's interpretation of it. Sweeping and historically questionable statements such as 'Aotearoa-New Zealand was established as a bicultural state through the signing of te Tiriti'⁹⁷ are an unnecessary diversion from the more significant observation that because the Treaty was broken 'Maori became marginalised in their own country and structures of sin became embedded in this society'.⁹⁸ What the structures of sin are, how Maori have become marginalised, and the guidance offered by the magisterium for the resolution of these problems, are questions to be considered by lay Catholics participating in wider community debate. If biculturalism is the answer, it must still be critically examined, and its limitations considered. The strength of *Ten Steps Towards Bicultural Action* – its presentation of relevant Church teachings – is undermined by its uncritical direction towards one particular political solution. Perhaps

⁹⁶ Smithies, *Ten Steps Towards Bicultural Action: A Handbook on Partnership in Aotearoa-New Zealand*, 1990, 6.

⁹⁷ Ibid. 7.

⁹⁸ Ibid. 7.

the Church's tendency to present political solutions, rather than just the principles which should inform them, explains Williams' observation that:

The conviction that the social doctrine is an integral part of the Church's mission does not sit easily with many people both within and outside the Church... Inside the Church there are those who don't want to take sides in controversial matters, people remarkably generous in providing ambulances at the bottom of the cliff but impervious to the need for fences at the top.⁹⁹

If the magisterium establishes a need for a fence, it is for the laity to decide which fence, possibly a self determining fence, maybe a bicultural fence or perhaps some other kind.

Browne clarified the position from a Catholic perspective.

The Church has an important role in assisting Maori and non-Maori to find positive solutions to problems arising from a just and moral application of the principles of the Treaty.¹⁰⁰

Smithies also argued that

bicultural can also refer to the ability of a person to be at home in two cultures. It implies an understanding of and respect for a culture other than the one in which the person was born and raised. Many Maori are thus bicultural; keeping to their own distinct culture they have been forced to function in the dominant culture. Therefore to become bicultural is primarily a challenge to Pakeha.¹⁰¹

Successive statistical data have shown that while some Maori may be bicultural in the way Smithies describes, many are not. High rates of Maori unemployment, limited educational attainment, poor housing and health standards all indicate that far from having 'been forced to function in the dominant culture', most Maori in fact function outside it.¹⁰² The low level of Maori competence in the Maori language also indicates that

⁹⁹ Thomas Williams, "1990 Act of Commitment", Cathedral of the Blessed Sacrament, Christchurch, 29 April 1990, In *The New Zealand Tablet* 6 June 1990, 13.

¹⁰⁰ Denis Browne, "Catholic Bishop Calls on Government to Honour Treaty of Waitangi", Auckland, Media Release, 1990, 1.

¹⁰¹ Smithies, *Ten Steps Towards Bicultural Action: A Handbook on Partnership in Aotearoa-New Zealand*, 1990, 10.

¹⁰² See for example New Zealand. Dept. of Statistics., *Statistics: Census of Population and Dwellings: March 1991* Wellington, N.Z.: Dept. of Statistics, 1991.

many Maori do not function in the Maori community particularly effectively either.¹⁰³ So a new group that is functionally neither Maori nor Pakeha, but is dispossessed of a firm and effective cultural identity has emerged. The image of a truly bicultural person does not coincide with the experience of most Maori people.

Smithies also discussed the process of change required for an organisation such as a school to become bicultural. This is a form of bicultural reformism that whether in itself good or otherwise can not be a substitute for self-determination. Whatever a bicultural school may be, it presumably allows for some Maori input into its operations, but only as far as the Pakeha determined national regulations permit, and as far as the other culture in the bicultural relationship will compromise. Maori will inevitably be the junior partner in such a bicultural project. Self-determination is therefore better advanced through kura kaupapa Maori,¹⁰⁴ for example, which although subject to the same national regulations, are at least managed by and for Maori people in a way that allows with fewer restrictions, the development of a limited self-determined pedagogy. New Zealand governments have supported the development of kura kaupapa Maori in part because of a recognition of the impropriety of earlier attempts to encourage assimilation by using its school system to undermine the Maori language.¹⁰⁵ That support can therefore be seen within the context of reconciliation and represents an interesting contrast with the Australian minister John Heron's justification of his government's refusal to say 'sorry' to the stolen generations on the grounds that the removal of children from their families was legally sanctioned.¹⁰⁶

¹⁰³ See for example New Zealand Waitangi Tribunal. and E. T. J. Durie, *Report of the Waitangi Tribunal on the Te Reo Maori Claim (Wai 11)*, 2nd ed. Wellington, N.Z.: The Waitangi Tribunal, 1989.

¹⁰⁴ Kura Kaupapa Maori are schools which teach in the Maori language and use, as far as government regulations will allow, a Maori pedagogy. They are however state funded, required to teach the state mandated national curriculum and subject to audit and review by the state.

¹⁰⁵ Walker, *Struggle without End: Ka Whawhai Tonu Matou*, 146-148.

¹⁰⁶ John Heron, Letter to Father Frank Brennan, SJ, 21 August 1996.

Undermining the Maori language was sanctioned by successive governments, yet it has not been argued that on this basis it is proper to avoid tangible efforts to address its consequences. Indeed one might view kura kaupapa Maori as exactly the ‘practical reconciliation’ that focuses on the future and addresses indigenous disadvantage, which John Howard argues as an alternative to simply saying ‘sorry’.¹⁰⁷

Language and Biculturalism

The Catholic linguist Richard Benton has identified a potentially serious impact of biculturalism as it applies to the Maori language. In an unpublished paper presented to a seminar ‘Understanding Waitangi’, organised by the Wellington Commission for Evangelisation, Justice and Development, Benton discussed the importance of preserving the Maori language and suggested that through its schools the Church could play a particular role in supporting that language preservation.¹⁰⁸

Benton suggested that the importance of language is that

through the gift of language, Man is able to grow in knowledge and wisdom, to record his past and plan his future, to enter into a creative partnership with fellow human beings and with God.¹⁰⁹

Although Benton argued that ‘the Maori language is also part of the heritage of all New Zealanders’, he also warned against a ‘severance of Maori language from Maori culture’.¹¹⁰ Benton’s remark arose from his consideration of a report advocating the recognition of Maori as an official language of New Zealand, and promoting the greater

¹⁰⁷ Howard, “Practical Reconciliation”, 94-95.

¹⁰⁸ Richard A Benton, “The Maori Language, the Treaty of Waitangi, and Race Relations in New Zealand”. A Paper Presented to the Understanding Waitangi Seminar of the Archdiocese of Wellington Commission for Evangelisation, Justice and Development, Wellington 15 October 1983, 4.

¹⁰⁹ Ibid., 2.

¹¹⁰ Ibid., 13-14.

use of the language throughout the country. Benton supported these objectives, but said that the recommendation

that over a twenty year period, that applicants for a wide range of occupations should be required to demonstrate evidence of a conversational facility in Maori or a Polynesian language would seem to embody the worst fears of all opponents of the official support for bilingualism in New Zealand.¹¹¹

Had such a proposal been adopted as government policy it would have undermined political support for efforts to preserve the Maori language. This undermining would have come not just from those who for reasons of prejudice did not wish the language to survive, but also from those who while supportive of Maori retaining their language, did not wish to be compelled to use it themselves. Even more important is Benton's fear that the policy would alienate Maori language from Maori culture. He suggested that

such a language requirement would discriminate almost as effectively against people of Maori ancestry as it would against those from the so-called Pakeha majority. This might make it appear to be fair. However, the majority, if the need arose, would soon prevail in a contest such as this. Even if Maori people proved twice as adept at learning Maori as anyone else, there would still be three or four Maori speaking Pakeha for every Maori who knew the language. In fact, given the control of educational resources exercised by the elite among the majority group, Maori people may well find themselves crowded out of the marketplace by such a requirement, unless they were given time and opportunity to gain a head start in such a race.¹¹²

Benton's analysis shows that even when biculturalism is advanced for the best of intentions it can in fact undermine Maori autonomy. His comment that

it is important that the Maori language should remain first and foremost Maori, and only secondarily become the New Zealand language¹¹³

applies equally to all aspects of Maori culture, in relation to biculturalism. Clearly biculturalism is not the magical solution that various members of the Church assumed. It

¹¹¹ Ibid., 13.

¹¹² Ibid., 14.

¹¹³ Ibid., 15.

can be a problematic political vehicle through which to achieve the Church's aspirations for Maori.

Further Bicultural Discourse and the Treaty of Waitangi

The breadth of the political philosophy of biculturalism is further reflected in yet another Catholic approach. In 1988 the Major Superiors of New Zealand's Catholic Religious Orders¹¹⁴ endorsed

the concept of a bicultural approach to New Zealand's future, seeing it as the indispensable intelligent basis for our development as a nation.¹¹⁵

This statement does not assume that New Zealand was, is, or should be a bicultural state, nation or society, but acknowledges the significance of New Zealand's cultural foundations for its further development.

The challenge faced by all New Zealanders, whether they are descended from the original inhabitants or from more recent arrivals, is to work out in the spirit of the Treaty how we can develop our nation on its two cultural foundations.¹¹⁶

This statement is useful because it acknowledges the special place of Maori in New Zealand society without diminishing the increasingly multicultural constitution of the New Zealand community. While it is a statement of the obvious, the fact that advocates of biculturalism do not always appreciate it, has exposed the concept to political criticism. Those who are opposed to the recognition of Maori rights as the first inhabitants of New Zealand have often used biculturalism's apparent ignoring of other minority groups as a veil for expressing their intolerance of Maori aspirations. By

¹¹⁴ The Major Superiors of Roman Catholic Religious Orders is a Conference of the leaders of New Zealand's religious orders.

¹¹⁵ Major Superiors of Roman Catholic Religious Orders, "Statement on Biculturalism in New Zealand", Media Release, September, 1988, 1.

¹¹⁶ Ibid., 2.

acknowledging ‘more recent arrivals’ the Major Superiors remove that argument from those who would challenge their position.

While the Major Superiors did not specify their vision for the ‘bicultural future’ of New Zealand, they imply it when dealing with the substantive and pressing issues for Maori of the settlement of historical grievance and the guarantee of a share in the country’s decision making and government.

The spirit of the Treaty of Waitangi must be the guideline for resolving outstanding land, forest and fisheries claims. History tells us that the Maori has since 1860 consistently petitioned government to have the provisions of the document honoured... It is possible for us to live as New Zealanders sharing power, decision making and responsibility.¹¹⁷

If a commitment to sharing power, decision making and responsibility is accepted, the question of how that is done must be addressed. At the national level, questions of Maori participation in the government and administration of the country as a whole are raised. But for Maori an equally if not more important consideration emerges. What are the implications of these principles for the greatest possible level of Maori autonomy over their own affairs? While sharing is better than nothing, it is potentially an example of biculturalism allowing one step towards autonomy but preventing the next. That is, to what extent is it reasonable that iwi share power, decision-making and responsibility over their own lives and resources with the Crown? To the extent that the Crown is responsible for protecting the common good, sharing is legitimate, but if the right to self-determination is to be upheld that sharing cannot be expressed as paternalistic control.

Just as important as the Major Superiors’ interest in resolving outstanding Maori claims and ensuring a place for Maori in the future development of the country is its challenge to those who reject such goals through emotional hysteria.

¹¹⁷ Ibid., 1.

We challenge all New Zealanders to seek out the facts of our history, which are now readily available, and not to hide behind misinformation with its attendant unreal fears.¹¹⁸

In relation to this misinformation the Major Superiors noted that

it is a significant indictment of what has been taught as New Zealand history in schools over the last eighty years, that many facts of New Zealand's race relations history recorded in Parliamentary documents, have been glossed over or simply ignored.¹¹⁹

The Church, second only to the State as a provider of primary and secondary schooling, is in a strong position to rectify this concern. However, to do this successfully, historical objectivity combined with consideration of the relevant teachings of the Church is more legitimate than being sidetracked by political debates of limited pertinence.

In 1989, at the direction of the Bishops' Conference, JPD made another contribution to the bicultural/multicultural debate. The commission described its mandate as to

promote bicultural relationships in our multicultural society and inform and educate Catholics on their responsibilities under the Treaty of Waitangi.¹²⁰

One of those responsibilities, JPD argued, was one belonging to all New Zealanders, 'to honour the Treaty of Waitangi'.¹²¹ While JPD's objectives may have been the furtherance of Maori Treaty rights and an enhancement of the place of Maori in society, the bicultural/multicultural diversion was again raised, as was the suggestion that Catholics have responsibilities under the Treaty of Waitangi. Honouring the Treaty can not be such a personal responsibility because nobody, other than the parties to it can honour it. Even though all New Zealanders are represented by the Crown, and Maori are represented by their iwi, honouring or dishonouring the document is the preserve of the institutional

¹¹⁸ Ibid., 1.

¹¹⁹ Ibid., 1.

¹²⁰ Catholic Commission for Justice Peace and Development, "Honour the Treaty, Says Catholic Commission", Wellington, Media Release, 14 March 1989, 1.

¹²¹ Ibid., 1.

Crown and iwi, not of individuals. In 1990 Browne issued a statement ‘Catholic Bishop Calls on Government to Honour Treaty of Waitangi’, which by its title suggested that point. The bishop presented a more considered analysis which ‘scrutinised the signs of the times’.

It [the Treaty] is one of the most important social and moral issues facing New Zealand at the present time... it is the duty of the Church to lead on this issue. Education about our history and an understanding of the Treaty is the responsibility of every New Zealander.¹²²

Yet JPD’s assumption of the final word on the basis of spurious historical interpretation has impeded leadership of that kind and is inconsistent with Browne’s advocacy of education and understanding as the ‘responsibility of every New Zealander’. A more likely foundation for theologically legitimate ‘leadership’ is for Catholic activists to acknowledge that individual Catholics, both Maori and Pakeha, have responsibilities to one another as human beings, not as citizens of a nation constituted by the signing of a Treaty between two sovereign nations. By virtue of their membership of the Church, Catholics have responsibilities under the magisterium. For New Zealand Catholics of whatever ethnicity, these responsibilities include the responsibility to contribute towards the advancement of the rights that the magisterium upholds as belonging to Maori. In the political and legal arenas these rights can be claimed and given expression through the Treaty of Waitangi. But to maintain that individual Catholics have responsibilities under the Treaty itself is not legitimate. Only the parties to the Treaty have obligations under it. The distinction may be politically pedantic in that it does not have a bearing on how Catholics contribute to the realisation of Maori rights. But, theologically, the distinction is important because the Treaty is a product of human law. It is therefore secondary to the

¹²² Browne, “Catholic Bishop Calls on Government to Honour Treaty of Waitangi”, 1990, 1.

natural law, which informs the magisterium, and is the authority for the Church's participation in the political community, as well as the source of the ideals that should be promoted by Catholics in the public arena.

In a publication in 1990, JPD expressed a similar view regarding the Treaty of Waitangi and Catholic schools:

Implementation of treaty provisions in school charters is not only a requirement of government but a prerequisite for any Catholic school.¹²³

School charters are statements of bureaucratic rhetoric, and while the requirement that they include Treaty provisions is symbolically important, it is not clear that their presence makes a substantive difference to the education of Maori children. While the Church has certain moral obligations to Maori children in its schools that may be expressed differently to the obligations it has to all children, these responsibilities arise from the school's role as a teacher, and where appropriate as an implementer of Catholic social teachings. Often these teachings coincide with the Crown's accepted rights of Maori children in the school, but for the Church they are rights which exist regardless of the Crown's interpretation of the Treaty of Waitangi through school charters.

JPD has also endorsed the 'inviolable nature of Maori rangatiratanga'.¹²⁴ Rangatiratanga was intended to have been protected by the Treaty of Waitangi, and is consistent with teachings on the right to exist and the right to culture for example, but some consideration of the relationship of this to biculturalism would bring greater clarity to JPD's application of Catholic principles to political questions. Biculturalism prevents absolute rangatiratanga as absolute rangatiratanga is monoculturally Maori. If absolute

¹²³ John Egan, "The Treaty of Waitangi and Catholic Social Teaching", Wellington. Catholic Commission for Justice, Peace and Development, 1990.

¹²⁴ Catholic Commission for Justice Peace and Development, "Honour the Treaty, Says Catholic Commission", 1989, 1.

rangatiratanga is practically impossible, or contrary to the common good, does rangatiratanga remain inviolable? If it is not practically impossible or injurious to the common good, it is no longer bicultural, and biculturalism would seemingly become unjustifiable.

Overly enthusiastic acceptance of the Treaty of Waitangi is problematic for the Church because there is a conflict between the magisterium's limitations on the right to property and the Treaty's unfulfilled guarantee

to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession.¹²⁵

While the *Treaty of Waitangi Amendment Act 1985* provides for compensation and return of unjustly alienated land, it does not necessarily provide for a complete return, nor does it permit the return of land unjustly alienated once ownership has transferred to a private owner. In the event of a dispute the interests of the owner prevail. Like the *Wik* ruling that where there is a conflict between the interests of native title holders and pastoral leaseholders the interests of the pastoralist will prevail, the inability of the Waitangi Tribunal to recommend the return of privately owned land creates a political restriction that makes religious advocacy less difficult.

Treaty settlements represent a significant compromise on the part of Maori claimants. Catholic social teachings concerning the qualifications on property ownership and concerning the common good justify these Maori compromises, although the Treaty of

¹²⁵ *Treaty of Waitangi*. Article the Second. *Treaty of Waitangi*. In Claudia Orange *The Treaty of Waitangi*. Wellington: Allen and Unwin, Port Nicholson Press, 1987.

Waitangi itself does not. The Church therefore, can only make ‘a commitment to honour the Treaty of Waitangi as a covenant’,¹²⁶ with reservations, however politically unlikely it is that a strict application of the land rights it confers could ever be made.

Although it does not enjoy the same status as the Bishops’ Conference or the Commission for Justice Peace and Development, the position of the Northland/Wilton parish committee for Evangelisation, Justice and Development¹²⁷ is noteworthy because it avoids the potentially distracting language of biculturalism. Instead, it focuses directly on some of the issues inhibiting greater Maori autonomy.

Even a casual look at the statistics relating to health, education, employment, justice and social welfare reveals that Maori people are severely disadvantaged by the past and present systems. We commend therefore any moves to not only seek the views of Maoris but also to give them a greater role in policy development and decision making.¹²⁸

This statement demonstrates that the Church can advance greater Maori independence without recourse to a not necessarily helpful secular political philosophy. For the Church, its own social teaching provides more powerful and more authoritative argument. For the Church it makes more sense, and it is more consistent with the magisterium, to advance the broad arguments of its traditions and teachings for the guidance of lay people, whose role it is to develop policy solutions in the political arena. It might be that biculturalism is a practical and justifiable policy response. In this case, it would therefore meet the ‘demands of justice’. But, biculturalism might also be too much of a compromise for Maori people to be legitimately asked to make. Biculturalism is too broad a political

¹²⁶ Denis Browne, “Terms of Reference for the Auckland Diocesan Commission for Justice and Peace”, 1993, 5.1.

¹²⁷ Individual parishes may choose to establish committees for the furtherance of particular Church objectives.

¹²⁸ Northland/Wilton Parish Committee for Evangelisation, “Submission to the Royal Commission on Social Policy”, Submission 914, 1987, 4.

philosophy to be unequivocally proposed – or indeed dismissed - by the Church. While biculturalism can promote justice, it can also inhibit it, or remain neutral. It would be more in keeping with a pragmatic application of the magisterium to political problems to focus on establishing what is justly owed to Maori, and if a form of biculturalism can be developed which enhances justice, then that is legitimate. If biculturalism is the policy option society wishes to pursue then it is more credible for the Church to highlight the issues of justice concerned with such a policy, in order that lay people might better promote justice within that bicultural policy framework. If an alternative policy direction is adopted then it is for the Church to do the same within that context. But, unless a political philosophy is absolutely clear and consistent (or inconsistent) in its relationship with the magisterium, it is difficult for the Church to justifiably and usefully embrace (or reject) it absolutely. A comparable situation does not arise in Australia where reconciliation – a religious precept – more explicitly provides a philosophical context for an attention to indigenous grievance. Reconciliation can align the religious goal with political means in a simpler and clearer fashion than biculturalism allows.

In 1988 the National Commission for Justice Peace and Development and Te Runanga o Te Hahi Katorika¹²⁹ told the parliamentary Select Committee on the Maori Fisheries Bill that they ‘interpret the Treaty of Waitangi as a solemn contract having moral authority’.¹³⁰ On the basis of that interpretation they proceeded to

examine the foundation for the norms of justice and to a bicultural society such as we have in Aotearoa-New Zealand.¹³¹

¹²⁹ Te Runanga o Te Hahi Katorika is a Commission of the Bishops’ Conference with responsibility for Maori pastoral issues.

¹³⁰ Catholic Commission for Justice Peace and Development and Te Runanga o te Hahi Katorika ki Aotearoa, “Submission to the Parliamentary Committee on the Maori Fisheries Bill 1988”, 31 October 1988, 1.

¹³¹ Ibid, 1.

The submission went on to dismiss the Crown's approach to the joint working party it had established with Maori to facilitate the addressing of Maori fishing rights.

It [the Bill] is the result of a process which was not finished as the joint working party was unable to reach agreement. Now one partner in that process has determined for the other partner the result of that process.¹³²

The submission was flawed by its own rhetoric. Whatever 'the bicultural society such as we have in Aotearoa-New Zealand' may be, it is surely not a society in which the Crown can unilaterally override Maori concerns in the way the submission described in relation to the *Maori Fisheries Bill 1988*.

The submission reminded the Crown of the Court of Appeal's recent affirmation of its obligation to act in good faith in its dealings with Maori¹³³ and of its responsibility to re-establish the Maori fishing industry.

It must do so in partnership with Maori authorities in an effective manner, which will ensure the continuance of Maori fishing.¹³⁴

The submission argued that this obligation arises because:

The Crown and other vested interests have been a party to injustices perpetrated against the Maori with regard to fishing practices and laws. The Crown, and these interests who have benefited from the injustice, have a responsibility to right the wrongs of the past which ensures no future occurrence of injustice.¹³⁵

If the Treaty of Waitangi is a 'solemn contract having moral authority',¹³⁶ are the attempts that the Crown has made, as an example of bicultural distributivism, to re-establish the Maori fishing industry sufficient? The Crown has made a significant financial and political attempt to re-establish Maori fishing, but in the process it has

¹³² Ibid., 2.

¹³³ *New Zealand Maori Council v. Attorney General*, 1986.

¹³⁴ Catholic Commission for Justice Peace and Development and Te Runanga o te Hahi Katorika ki Aotearoa, "Submission to the Parliamentary Committee on the Maori Fisheries Bill, 31 October 1988", 2.

¹³⁵ Ibid., 2.

¹³⁶ Ibid., 1.

provided an example of bicultural distributivism's inability to address the Treaty of Waitangi's guarantee to Maori of 'the full exclusive and undisturbed possession of their... fisheries...' ¹³⁷

This is an example of the Treaty clearly not having established a bicultural state of the kind reflected in the fisheries settlement. If the settlement was a compromise, made just by the demands of the common good, the solemnity of the Treaty of Waitangi is still lessened. The bicultural society or the bicultural state requires significant compromises to the Treaty. The Treaty as it was signed and biculturalism are not compatible. The tendency for legislation, and for the courts to speak of the principles of the Treaty, rather than the Treaty itself is evidence of this.

Although the views of the hierarchy and the diocesan commissions for justice and peace on the Treaty of Waitangi, have remained consistent since it began to receive systematic attention during the 1980s, there are alternative views within the Church. Under the editorship of John Weir a cynicism untypical of broader Church thinking characterised *Zealandia's* editorial approach to the Treaty of Waitangi. In 1984 an editorial appeared under the heading 'The annual Waitangi Day massacre'. *Zealandia* questioned why Waitangi Day was a 'national day of thanksgiving'. ¹³⁸ The paper suggested that as Waitangi Day marks the day on which New Zealand became an English colony it is 'an event which is offensive to so many New Zealanders'. Further *Zealandia* argued if Waitangi Day were not a day of thanksgiving it could become

an important occasion in which matters relating to the Treaty could be considered without the acrimony and violence which are bound to arise when winners seem to be pitted against losers. ¹³⁹

¹³⁷ *Treaty of Waitangi*. Article the Second.

¹³⁸ *Waitangi Day Act 1990*. Section 2. Wellington. GP Print, 1990.

¹³⁹ *Zealandia* 5 February 1984.

It is arguably what happened after New Zealand became a colony rather than the fact of becoming a colony itself that might be considered offensive to Maori. Initially for Maori the Treaty offered political and social stability. It offered a structure that would keep order among the small but growing British population and it offered British protection against the perceived threat from France and perhaps the United States of America. It also offered protection against land alienation. That this latter hope, accompanied by a wider destructive impact of colonisation, was not met is what might disturb. It is significant that at the time of *Zealandia's* writing, policy makers were exploring further ways of allowing the Treaty to provide a resolution to what was offensive to many.

If reconciliation is to occur, then society must acknowledge the good with the bad. Those who remain aggrieved by the fact of New Zealand becoming an English colony have little to gain by removing themselves from the opportunity for reconciliation that is afforded by the Treaty of Waitangi. So in the sense that the Treaty provides a framework for development and marked the beginning of the development of modern New Zealand, Waitangi Day is properly a day of thanksgiving. The danger is when the Treaty is aligned to political crusades that it is not equipped to support.

In 1987 the Pahiataua branch of the Catholic Women's League told the Royal Commission on Social Policy that:

The status given to the Treaty of Waitangi and the Waitangi Tribunal must be one of the most curious and troublesome aspects of the Bill [the proposed Bill of Rights].

It is a palpable attempt to appease sentiment in relation to one matter by bundling the whole problem into 'supreme law'. How a treaty which has never had legal effect and which was never more than an act of state can suddenly be transformed into supreme law 145 years after the event defies rational explanation.

The Treaty quite apart from the fact that its Maori and English versions may not entirely coincide, is by its very nature vague and uncertain.

Whether the Treaty is capable of legal application is open to great doubt. This is not to deprecate its symbolic value or its great importance in New Zealand history. The mistake is suddenly to accord it a legal status for which it was never intended, and for which it is plainly not fitted.¹⁴⁰

The status of this submission is limited. It is important in that it is the view of committed Catholic lay people, but as a Catholic document it is weakened by the absence of a demonstrated connection between its conclusions and the magisterium. It is also weakened by the demonstrable failure of its authors to fulfil the requirement of being informed before contributing to policy debate. The statement that the Treaty has ‘never had legal effect’ is patently untrue, and reflected an ignorance of contemporary political and legal argument and decisions. It is extraordinary, in light of its high and controversial public profile, that the League had overlooked, for example, the legal significance of the Treaty reaffirmed by the Court of Appeal in May that year.¹⁴¹

The statement that it ‘was never more than an act of state’ is also remarkable. The Treaty of Waitangi was an act that brought a new state in to being. However ill informed and inconsistent with the views of the hierarchy the League’s position is, it is mentioned because it is arguably not unrepresentative of a sizeable body of Catholic opinion.

In contrast to the League, Justice Temm argued that limiting the legal significance of the Treaty

is just another cloak for racism, because the purpose of the argument is to deny that Maori New Zealanders have any special rights under the Treaty. The terms of that document, especially in its second article where Maori New Zealanders were promised the fullest authority over their own affairs, are too simple, too clear and too explicit to be capable of misunderstanding.¹⁴²

¹⁴⁰ Catholic Women’s League. Pahiatua Branch, “Submission to the Royal Commission on Social Policy”. Submission 2170, 1987.

¹⁴¹ *New Zealand Maori Council v. Attorney General*, 1987. 1 NZLR, 641.

¹⁴² Temm, “Biculturalism and the Rights of Minorities”.

Temm also addressed the criticisms of those who would withhold Maori treaty rights on the grounds of equality.

Those who advance this argument tend to try to equate equality, with equity and justice. But if enforced equality results in oppression of a minority, then it can never be either equitable or just.¹⁴³

The equality of uniformity that was promoted through policies of assimilation are examples. Two such examples were cited by Temm, the *Suppression of Tohunga Act 1908* 'which was plainly a deliberate repression of an important part of Maori culture', and the exclusion of the Maori language from schools. Both are examples of a society denying the right to collective identity and failing to respect a minority group, the consequence of which is 'generally some kind of racism'.¹⁴⁴

Of the Church's various approaches to biculturalism, that of Durning is the most far-reaching, and although containing practical difficulties, the most consistent with self-determination. In a letter to the *Dominion* newspaper, in 1985 Durning wrote:

Could I congratulate you on your editorial on the Maori language... you pointed out that a culture cannot survive without a language. I would like to carry the matter further to say that cultures and language in their turn wither slowly unless they have some form of corporealisation, a land base.

Zionism enshrining the Hebrew culture and language (but only as a written language) was completely revived and the language resurrected as a spoken language when the state of Israel came into being. No ambitious programme is here proposed, but that it is necessary to aim at the building up of a Maori Vatican state... with Maoritanga fully abreast of modern developments... kohanga reo, a Maori university, a Maori bishop etc. are dispersed elements which, if united... in one place, drawn there, by schemes like the Basque Mondragon schemes, could function as a heart for Maoritanga in its state of dispersion. History shows that civilisations wither when they lose their land base. Israel shows what happens when they gain one.¹⁴⁵

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ J Durning, Letter to the Editor, *The Dominion*, Wellington, 22 July 1985. MAW. 202/6.

Durning's proposal differs strikingly from bicultural reformism, because its bicultural component, which allows the state ultimate authority, is limited to a much greater extent than it is under regimes which promote minor reforms to essentially Pakeha institutions in order to make them more responsive to Maori people. Durning's scheme reflects bicultural distributivism in that it would require the redistribution of some of the State's resources to Maori, but once that had happened the potential for Maori autonomy to exist to the greatest extent possible would be realised.

In spite of the consistency of Durning's idea with the general principles of autonomy and self-determination, and its potential for avoiding the limits of strict biculturalism, the proposal has serious practical difficulties. The broad principles are still useful, and could be applied under alternative models. Other than the political difficulty of getting such an idea accepted by the Pakeha majority, which would be likely to respond with the not uncommon cry of separatism, Maori social and political structures make its realisation highly unlikely. In spite of the commitment and goodwill which has surrounded attempts at kotahitanga since the mid-1800s, an enduring and sufficiently strong united Maori political structure to lead and manage such an entity has not been achieved.

From both Catholic and Treaty perspectives however, Durning's idea is theoretically legitimate, although on an iwi rather than national basis. Indeed, a possible model for limited Maori self-government existed in New Zealand, but was never firmly established, between 1852 and 1986. Section 71 of the *Constitution Act 1852* permitted the establishment of native districts in areas where the population was largely Maori and provided for traditional laws and customs to have recognition and status. It is possible that a reorganisation of local government boundaries and legislation could see local

authorities used as vehicles to achieve greater Maori self-determination in those parts of New Zealand which maintain predominantly Maori populations. But a radical shift in prevailing Pakeha political thought would have to occur before such an idea could gain momentum. The bicultural focus on parallel structures of government, such as that put to and rejected by Michael Bassett as Minister of Local Government in 1989, would also have to give way to a model focused primarily on individual iwi.

Summary

According to the Church New Zealand, or Aotearoa-New Zealand, is variously a bicultural society, a bicultural nation, was established as a bicultural state, or is a bicultural society on its way to becoming a multicultural society. Do these inconsistent descriptions with potentially markedly different structural manifestations really matter? While of symbolic relevance, does the use of the word Aotearoa before New Zealand contribute substantially to the realisation of the rights that the Church teaches Maori people may claim? Or does the use of emotionally informed politically fashionable language only alienate the unsympathetic and detract from the advancement of the substantive issues facing Maori society, which the JPD and TRTHK submission subsequently addresses.

The *Instrumentum Laboris* of the Synod of Bishops for Oceania noted that many bishops were ‘inspired by John Paul II’s encyclicals *Sollicitudo Rei Socialis* and *Centisimus Annus* to continue the Church’s engagement in the ‘work of social justice’.¹⁴⁶ However, the bishops also noted that the quality and effectiveness of their contributions to debate ‘on behalf of the marginalised and downtrodden in society’ required knowledge of the

¹⁴⁶ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, 33.

political and social sciences, which could perhaps be obtained from specialised research institutes.¹⁴⁷ It was considered that

more scientific information about the economics of banking and commerce, as well as about the social and political philosophies that support them is also required, so that through interdisciplinary study, moral theology can exercise a determinant role in the social and economic sciences.¹⁴⁸

The Australian Church is better equipped than the New Zealand Church to contribute to political debate because of its greater capacity to carry out its own political, economic and social research. This is evident when the volume of work of each Church is compared. In New Zealand there is a profound lack of theologically informed scholarship to support systematic and concerted religious activism in the political realm. A larger capacity to carry out research to inform bishops' pastoral letters and submissions to government would increase the Church's ability to meet its objective of supporting the rights it teaches as belonging to Maori people. For example, more thorough research into biculturalism as a political philosophy may have led to a more cautious embracing of the idea by the Church.

Bishops Brian Ashby, Denis Browne, Godfried Daneels and Basil Meeking have all encouraged religious activism in support of Maori aspiration, and have contributed to a lessening of the distance between magisterial thought and religious practice. Browne, Daneels and Meeking have done so with the explicit endorsement of John Paul II, but the resulting activism of some lay people within the Church has in fact been a political activism that has relied only secondarily, if at all, on the magisterium as a source of legitimacy.

¹⁴⁷ Ibid., 34.

¹⁴⁸ Ibid., 34.

The Treaty of Waitangi and biculturalism pose difficult legal, political and philosophical questions. Whether the Treaty is a ‘solemn contract having moral authority’¹⁴⁹ or just of ‘symbolic value’¹⁵⁰ is of important legal and political significance. Whether New Zealand adopts a bicultural framework in which to develop the relationship between Maori and the Crown, and more broadly between Maori and all other New Zealanders, is also politically important. But, with or without the Treaty or biculturalism, the Church has a comprehensive body of teaching supportive of the advancement of Maori autonomy, kawanatanga and rangatiratanga to the greatest extent possible. The same body of teaching is supportive of the resolution of injustices towards Maori. Justice, the rights to existence, self-determination and respect are affirmed in the Treaty of Waitangi, but for the Church the Treaty is not the source of those rights. They exist independently of the Treaty because they arise from the belief that all are entitled to the dignity that is given expression through these rights by virtue of their creation in the image and likeness of God. For the Church itself this must be a much stronger claim. By its own definition, the Church and its magisterium stand above the Treaty. When Catholic discourse loses sight of this point it devalues its expertise in Christianity as a source of guidance to the political community, and assumes an expertise in politics and law that it does not possess. The Treaty of Waitangi has difficult legal and political implications, and biculturalism is not a simple unproblematic philosophy. The Church’s insufficiently critical interpretations and associations with both the Treaty of Waitangi and biculturalism have sometimes allowed fashionable secular political preference to overshadow the magisterium in the public expression of Church thinking. While the Church can not but

¹⁴⁹ Catholic Commission for Justice Peace and Development and Te Runanga o te Hahi Katorika ki Aotearoa, “Submission to the Parliamentary Committee on the Maori Fisheries Bill 1988”, 1.

¹⁵⁰ Catholic Women’s League. Pahiatua Branch, “Submission to the Royal Commission on Social Policy”.

seek alliances of common aspiration with the political order if it is to give secular context to the magisterium, too close an association with secular ideas that do not reflect a sole and inescapable conclusion to be drawn from the magisterium, can undermine the credibility and authenticity of religious expression.

CHAPTER EIGHT

CONCLUSION

The Religious Imperative to Political Engagement

The Roman Catholic Church in Australia and New Zealand has always been distinguishable from others by its universality: it is for all the peoples of the world. Its magisterium maintains that all people are created in the image and likeness of God and that such creation precludes racism and establishes a right to individual and collective dignity, to self-determination, to culture, to religious freedom and a share in the common good.¹ It is not a state Church, taking orders from any government and it has a distinctive emphasis on the family, which it sees as a natural social unit prior to, and not subservient to the state. Yet prior to the Second Vatican Council it was in its own terms remiss in failing to take consistently and unashamedly a public stand for the equality of peoples, it failed to resist comprehensively the break-up of families, and its failures served the colonising and imperial ends of the British Crown. The attitudes and approaches of the Australian and New Zealand Churches were inconsistent with the Holy See's emphasis on the public advocacy of these rights as a religious imperative.² This is in spite of local churches having no grounds for reducing the importance that the Holy See attached to affronts to the rights and dignity of indigenous peoples.

Political engagement is not in contradiction with the Church's insistence that it is not a political lobby group, that it is 'in' but not 'of' this world, claims no political mission and bans its clergy and religious from holding elected political office. Instead, the Holy See

¹ These points were established in 'Religious Mission, the Common Good, the Role of the State and Self-determination' and 'Human Rights and Racism' in Chapter One.

² The inconsistency of pre-Vatican Council magisterial thought with predominant local practice was extensively considered in Chapters Three and Four.

maintains that religious aspirations demanded by the natural law unavoidably have political implications, because they can only be given effect through human law, which the magisterium establishes should conform to that higher natural law.³ When human law affronts the natural law there must inescapably be religious as well as political issues at stake. Human law is within a political process which continually balances a number of competing moralities, rights, interests and theories to determine which will be most influential at any given time. The magisterium can therefore only be effectively articulated when the Church is alert for concrete political issues and to the formation of intellectual alliances of common aspiration to give secular political context to religious principle.⁴ At the same time however, the Catholic hierarchy is ever conscious of a need for caution in how it responds to political events.⁵ There are constraints to political participation which cannot be overlooked because the hierarchy legitimately fears that religious mission could be compromised if the Church has the public appearance of a partisan political lobby group unable to establish the unique contribution to human affairs that it claims should set it apart. Yet it remains the case that the social application of the Church's mission is most easily expressed within a definite political context,⁶ and if it

³ The relevance of Thomas Aquinas' categorisations of law to political decisions was introduced in 'The Teaching Mission and 'Discipleship' of Jesus Christ' in Chapter One. Its status as an informing principle behind magisterial thought on the political implications of religious principle was borne out in Chapter Two.

⁴ That such alliances were not generally formed before the Second Vatican Council was made evident in Chapters Three and Four, which also demonstrated however that where there was attention to intellectual alliances of common aspiration, forthright expression of religious principle in meaningful political context was possible. Chapters Five, Six and Seven demonstrated that in the post-Second Vatican Council era the extent to which effective articulation has been given to the magisterium depends on the extent to which the Church is alert for concrete political issues and to the formation of intellectual alliances of common aspiration to give secular political context to religious principle

⁵ The hierarchy's caution was a subject of discussion in Chapter Two.

⁶ This point is established throughout Chapters Three to Seven.

chooses the Church can and indeed has, contributed to political debate about government relations with indigenous peoples.⁷

Religious and Political Barriers to Political Engagement

The Catholic repudiation of racism is the considered theological assessment of an institution that identifies itself as ‘in’ but not ‘of’ this world with a duty to proclaim consistently God’s constant truth.⁸ One would therefore expect that the magisterium, not prevailing political thought and fashion, would determine Catholic responses to the relationship between the Australasian states and their indigenous peoples, with prevailing thought and fashion simply providing a secular context for religious expression.⁹ Yet in both Australia and New Zealand the political ease with which racial discrimination could be challenged has been the most important factor in determining whether the Church has chosen to advocate its religious principles or to put them aside in political context. This view applies equally well in both Australia and New Zealand in a general sense, even though the specific differences in each place have been significant. Specific differences are in part attributable to differences in political context, but also in substantial ways to different individual preferences and influences within each Church.

The general indifference of the pre-Second Vatican Council era is attributable to a lack of awareness of the full relevance of the magisterium to political choice, and an inadequately critical assessment of contemporary political and social circumstance, which allowed the politics ‘of’ this world a dominating influence over Catholic practice.

⁷ Examples are given in the ‘Voices of Nineteenth Century Protest’ sections of Chapters Three and Four, ‘The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tenison Woods’ in Chapter Three and throughout Chapters Five to Seven.

⁸ This duty was explained in the ‘Introduction’ to Chapter Four.

⁹ The influence of contemporary thought and fashion rather than the Church’s own magisterium over some acting in the Church’s name was the main theme in Chapters Three, Four and Seven.

Further, in the early nineteenth century the Australian Church itself existed on the fringes of a society, which harboured entrenched sectarian prejudice.¹⁰ As in New Zealand, narrow interpretations of the relationship between the Church and secular society's political decision-making processes meant that the question of how the Church should respond to political decisions that compromised its magisterium were not always considered, or indeed identified.¹¹ This was however a general, and by no means absolute rule. There remained a number of missionaries who considered that the injunction Matthew attributed to Jesus, that they were his 'disciples',¹² required them to resist whatever was contrary to the magisterium even if political circumstance made silence and indifference easier options.¹³ Those missionaries who challenged prevailing social and political thought were therefore not radical political activists. Gibney, Polding, Salvado, MacKillop and McNab saw their advocacy for Aboriginals as a direct and inescapable function of their religious duty.¹⁴ The religious motivation of their work demonstrated that the indifference of those who saw such activity as beyond their competence, because of its political dimension, were not theologically justified in their thinking. These missionaries also demonstrated that where there was alertness to the formation of intellectual alliances of common aspiration, and a distinction between faith and culture, the magisterium could be expressed with clarity and force even within the context of a hostile political environment. For example, there was a condemnation of discrimination and hostility from the highest level of the Australian Church in the form of a pastoral

¹⁰ The environment of prejudice in which the early Australian Church functioned was explained in the section 'Sectarian Prejudice' in Chapter Three.

¹¹ See Chapters Three and Four.

¹² The Gospel According to Matthew, *Good News Bible: Today's English Version*. Chapter 28: 19-20.

¹³ See the sections 'Voices of Nineteenth Century Protest' In Chapters Three and Four and 'The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tenison Woods' in Chapter Three.

¹⁴ This conclusion is drawn from the discussion in 'The 1869 Pastoral Letter, Gibney, MacKillop, McNab and Tenison Woods' in Chapter Three.

letter issued in 1869.¹⁵ This gesture was not repeated for over one hundred years, but the fact that the magisterium's implications for settler/indigenous relations were mentioned at all suggested that prelates understood the theology of their Church, but more frequently placed further political and social issues before that theology.

In mid-nineteenth century New Zealand there was an even lesser response to colonial discrimination.¹⁶ Pompallier insisted that his position required an 'aloofness' from politics.¹⁷ In reality however, he was not aloof. The political circumstances of the time may well have made it politically difficult for Pompallier to adopt any other position, but publicly at least, he took a pro-government stance on the Waikato War in 1863. He was manipulated from his claimed position of political neutrality to one of partisan alignment with the government over the war to the extent that he allowed his correspondence with the Ngati Haua chief Wiremu Tamihana Te Waharoa to be censored by the Governor, George Grey.¹⁸ Pompallier did not recognise his own political position as indeed a partisan pro-government stance, which set him apart from Polding, Brady, Salvado, McNab and Tenison Woods who believed that their Church's magisterium applied in a specific way to their missions. For them a religious activism that challenged State undermining of the rights of indigenous peoples was a religious imperative. They understood that their Church did not require them to mask religious principle for the convenience of governments. There were however some within the nineteenth century New Zealand Church who shared these Australian sentiments. Although weakened by strong sectarian prejudice and fanatical anti-British sentiment, Felice Vaggioli's *History*

¹⁵ The Bishops of Australia, "The Bishops of Australia on Christian Duty to the Aboriginal People", 1869.

¹⁶ This point was established in Chapter Three.

¹⁷ Orange, *The Treaty of Waitangi*, 57.

¹⁸ Jessie Munro, *The Story of Suzanne Aubert*. Auckland: Auckland University Press with Bridget Williams Books, 1996, 74-75.

of *New Zealand and its Inhabitants* and editorial comment in the *Freeman's Journal*¹⁹ identified and challenged the inconsistency of government practice with Catholic thought.

The contemporary political climate of British suspicion of both France and Catholicism may have influenced Pompallier not to challenge the moral impropriety that the magisterium would have suggested applied to the government's aggression. But he was also influenced by his Augustinian political interpretation ahead of a Thomist view that state rule only holds moral authority when it is justly acquired and justly exercised to the end that it is intended. In Catholic thought that end is the common good.²⁰ Human political power was not intended to override the natural law, which is the source of human law's authority.²¹ There cannot therefore be any possibility that the natural law does not have secular political implications.

Further impediments to a greater interest in indigenous political subjugation in both Australia and New Zealand were the paternalistic belief that while indigenous cultures were not wrong they were inadequately equipped to provide the quality and style of life that human dignity demanded, the priority that was accorded to Catholic settlers, and the widely held belief in the inevitability of indigenous extinction also contributed to a lack of attention to their political concerns.²²

In the twentieth century the New Zealand Church did not comprehensively challenge discrimination against Maori until after the Second Vatican Council because it accepted

¹⁹ See the section 'Voices of Nineteenth Century Protest: Vaggioli and the Freeman's Journal' in Chapter Four.

²⁰ Pompallier's position was discussed in the section 'Pompallier, The Treaty of Waitangi and The Waikato War' in Chapter Four.

²¹ Thomas Aquinas, *Summa Theologica* (New Advent: First Part of the Second Part 90: 92 [cited 6 October 2002]); available from <http://www.newadvent.org/summa/209002.htm>.

²² See Chapters Three and Four.

the prevailing social view that there was already racial harmony between Maori and Pakeha.²³ New Zealand missionaries inhibited their application of the magisterium to Maori circumstances through inadequate interpretations of the prevailing political and social climate.²⁴ Through its schools, the Church set out to preserve the Maori language. Missionaries, who saw themselves as teachers, not political activists, challenged assimilation in a very specific and practical manner.²⁵ The Church's attitude to schooling stood in contrast to the State's assimilationist objective and drew attention to the irreconcilable tension between the Catholic understanding of human equality and the secular desire to assimilate. But racial harmony apparently still prevailed. Even the consistent and unequivocal denunciations of racism in New Zealand rugby did not lead the Society of Mary's publications, the *Marist Messenger* and *Whiti Ora*, to discontinue that assertion of harmony. The papers' frequent exhortations to Maori passively to accept Pakeha government were not accompanied by consideration of the reasons for Maori discontent, or even acknowledgement of discontent.²⁶ The contradiction between discontent and harmony was not identified. The Church did not see that the government's intent was not cultural and linguistic preservation, but destruction.²⁷ While the Church could teach the sin of racism it could not challenge it when it did not see its existence. It was clear that Catholic prelates and newspaper editors understood that racism was sinful, and that when it was present as a result of secular policy choices, there was not just a

²³ This was the central theme of the section 'The Pretence of Racial Harmony' in Chapter Four.

²⁴ See the sections 'Assimilation: a confused and inconsistent approach' and 'The Pretence of Racial Harmony' in Chapter Four.

²⁵ See 'Assimilation: a confused and inconsistent approach' in Chapter Four.

²⁶ See 'The Pretence of Racial Harmony' in Chapter Four.

²⁷ See 'The Pretence of Racial Harmony' in Chapter Four.

political but a religious issue to be considered.²⁸ Public expression against racist practice in rugby administration was entirely proper. But this acceptance of the religious propriety of intervention was of no further practical significance when racist practice was not identified elsewhere.²⁹

The presentation of religious ideas in secular context requires accurate political assessment as well as theological expertise. In Australia there was no suggestion by the Church of racial harmony, but as in New Zealand there was an impeding of religious mission because both policy practice and established religious thought were misinterpreted. There was not a wide Catholic understanding of the extent to which religious ideology and God's 'constant truth' might have properly undermined secular intent. The Australian Church's responses to the intent and practice of enforced removal of indigenous children from their families is a very clear example of social and political circumstance putting pressure on the Church's advocacy of religious principle in political context.³⁰ There was an irresolvable tension between religious and political ideologies.³¹ This tension was often recognised by missionaries who only reluctantly accepted 'stolen' children into their institutions.³² But by its acceptance of children, reluctant or otherwise, the Church contributed to the viability of the practice and at least at a public level gave it legitimacy. The Church's participation in a policy demonstrably inconsistent with its magisterium, with its strong emphasis on the family being prior to the State, demonstrates that while clerical and religious fidelity to the magisterium might be expected, it is only

²⁸ See 'Assimilation: a confused and inconsistent approach' and 'The Pretence of Racial Harmony' in Chapter Four.

²⁹ This point was demonstrated in 'Assimilation: a confused and inconsistent approach' and 'The Pretence of Racial Harmony' in Chapter Four.

³⁰ See 'The Stolen Generations' in Chapter Three.

³¹ The tension between religious and political ideologies was demonstrated in 'The Stolen Generations' in Chapter Three.

³² See 'The Stolen Generations' in Chapter Three.

possible in the context of policy implementation, where there is an awareness of the political objective and an ability to assess that objective in light of Catholic thought. Those who did not have that ability or awareness might be described as ‘invincibly ignorant’, but those who were equipped to challenge the policy and its philosophical rationale but failed to do so, were undoubtedly remiss.³³

Post-Second Vatican Council: A New Religious and Political Context

As the New Zealand secular political process began to question racism and to place responses to it on the political agenda, a context for the Church to reassess its interpretation of the Maori predicament emerged.³⁴ The same political process occurred in Australia,³⁵ and from the 1960s onwards the Churches of both countries joined, and in the case of Australian reconciliation, led secular challenges to prejudice and discrimination. It had become clear to the Church that the religious imperative to participate in political debate when religious principle was undermined by secular political choice applied in a specific way to contemporary indigenous policy debate, as indeed it had always so applied.

Although the Church had been largely inattentive to racism in the past the combined influence of the Second Vatican Council and political change beginning in the 1960s saw a significant shift in Church focus. Its historical silence ceased for both religious and political reasons. The Council challenged the choice of silence, and political change created a climate in which racism could be challenged from within a broadened mainstream of political thought, rather than from a political fringe.

³³ The reasons for drawing this conclusion were explained in ‘The Stolen Generations’ in Chapter Three.

³⁴ This was the subject of ‘Political Change’ and ‘Reconciliation in the New Zealand context’ in Chapter Seven.

³⁵ See Chapter Five.

The Commonwealth's entry into indigenous affairs, following the constitutional referendum in 1967,³⁶ the provision of land rights in the Northern Territory, and the generally more sympathetic attitude towards indigenous peoples adopted by the Whitlam and Fraser Governments were among the political changes beginning in the 1960s.³⁷ These changes helped create an environment more conducive to the Church's promotion of its ideas on the proper treatment of indigenous peoples. Subsequently land rights and related issues have occupied the body politic, which interests the Church, because it recognises a right to own land on the basis of first occupancy, to transmit land to one's children and because land is central to Australian indigenous religious practice.³⁸ Land rights are religious rights, and their denial is a denial of religious freedom.³⁹ But the Australian Church should avoid the New Zealand error and not promote any particular formula or structure for recognising indigenous rights as the one required by Christianity. The political process of reconciliation is at different stages in the two countries. There are therefore lessons to be drawn for the Australian Church from the New Zealand Church. The Australian Church does not need to develop its own 'biculturalism'. It already lends support in a religiously authentic, yet politically relevant fashion, to the voicing of indigenous aspiration. It joins in the demand for dignity, justice and reconciliation. In New Zealand reconciliation has reached the stage of a re-balancing of indigenous/settler rights, interests and aspirations, as well as specific details of redress and self-determination. These specifics are not the Church's competence, but there remains scope

³⁶ The 1967 referendum was discussed in 'The Broadening of the Parameters of Secular Debate' in Chapter Five.

³⁷ See 'The Broadening of the Parameters of Secular Debate' and 'Land Rights and Self-Determination' in Chapter Five.

³⁸ See 'Land Rights and Self-Determination' and 'Native Title' in Chapter Five.

³⁹ See 'Native Title' in Chapter Five.

for a Catholic contribution to the moral and ethical issues involved in arguments over customary title to the foreshore and seabed, for example, which has become topical at the time of this thesis' conclusion in June 2003. The issue raises important questions for Catholic moral theology. The Catholic magisterium places the common good before individual property rights, but is the extreme extinguishment of customary title to the foreshore and seabed necessary to protect the common good of all New Zealanders? If it is not, and the Parliament proceeds to such extinguishment, there would be grave moral and ethical as well political issues at stake, and the Church would fail in its own terms if it remained silent.

In New Zealand significant change began with the Kirk Government's establishing a means for addressing breaches of the Treaty of Waitangi.⁴⁰ This mechanism was strengthened in 1985 with the passage of legislation allowing the Waitangi Tribunal to consider grievances dating to 1840.⁴¹ The 1970s and 1980s also saw a growing government acknowledgement of Maori language and culture, and initiatives were introduced to preserve and enhance these. The era of discrimination and prejudice had not necessarily ended in either country but it was being systematically challenged and consequently lessened.

Once the secular political process had widened the parameters of debate, and moved Catholic thought on the rights of indigenous peoples from the fringes of secular politics to a position within an increasingly widened mainstream, the Church began to reconsider the position of indigenous peoples.⁴² In both Australia and New Zealand the Church developed more forceful responses to the Holy See's increasingly frequent repudiation of

⁴⁰ See 'Political Change' in Chapter Seven.

⁴¹ The *Treaty of Waitangi Amendment Act 1985* was discussed in 'Political Change' in Chapter Seven.

⁴² This claim is stated and supported in Chapters Five to Seven.

racial discrimination.⁴³ Greater emphasis was also given to the requirement that Church members consider their participation in the political process with regard to Catholic social teaching.

The Second Vatican Council reaffirmed that the Church does not admit, as some of its members had at earlier times, that its intervention against racism in the public sphere intrudes on matters beyond its self-identified competence.⁴⁴ If the Church maintains a theoretical dismissal of racism, and claims a teaching mission from Jesus Christ, it is illogical that it not publicly articulate that which it dismisses. The Church is competent to dismiss some social structures, to identify what is wrong in law and politics. But its competence does not extend to specifying the new social structures and laws that should replace those which are wrong. That is the competence of politics, not the Church which does not wish to govern society.

The Council unequivocally encouraged a forthright and uncompromising public advocacy of religious principle. The Church did not introduce any new teachings to debate after the Second Vatican Council, but it did bring a more urgent insistence that teachings previously overlooked or downplayed should be advanced.⁴⁵ Catholic participation in indigenous policy debate however took place only with the added encouragement of the secular political process having placed indigenous concerns on the public agenda, and with the entrenchment of political systems that admitted a plurality of views in public debate.⁴⁶ In this context religious expression in secular context was more easily achieved than had been the case in the nineteenth century, for example. Yet it

⁴³ See Chapters Five to Seven.

⁴⁴ See 'The Second Vatican Council' in Chapter Two.

⁴⁵ See 'The Second Vatican Council' in Chapter Two.

⁴⁶ See Chapters Five to Seven.

remains that the extent of the Church's interaction with the public realm to give secular expression to its magisterium is primarily a function of choice.

The Australian Church's vocal and forthright contemporary interest in reconciliation differs from the New Zealand Church's equal but less publicly prolific interest.⁴⁷ Through alertness to political issues around which alliances of common intellectual aspiration might be formed, the New Zealand Church identified and used the Treaty of Waitangi as a context around which to focus its interest in the advancement of religious principle.⁴⁸ Significantly, it is that Treaty which has provided a political framework for reconciliation and opportunity for the Bolger, Shipley and Clark governments to say 'sorry', and to provide opportunities for limited expressions of self-determination which are unparalleled in Australia. Further, the New Zealand political process more readily and tangibly admits the propriety of reconciliation than does the Australian.⁴⁹ It is also noteworthy that a parallel to the Howard Government's argument that there was no justification for compensation to 'stolen' children because their removal was legal at the time it occurred has not been advanced in respect of New Zealand Treaty settlements.⁵⁰ The place of the Treaty of Waitangi in New Zealand society and its implications for the relationship between Maori and the Crown, Maori and other New Zealanders and the place of Maori in society has occupied the Church's most recent and most voluminous interest in Maori policy debate.⁵¹ On the basis of its interest in the Treaty of Waitangi, the Church at almost every level embraced the notion of biculturalism.⁵² In its enthusiasm to

⁴⁷ The differences are contrasted in Chapters Five to Seven.

⁴⁸ See Chapter Seven.

⁴⁹ This is evident from the discussion in Chapter Seven.

⁵⁰ See Chapter Seven.

⁵¹ See Chapter Seven.

⁵² The nature and limitations of biculturalism from a Catholic perspective are discussed in Chapter Seven.

see the political pursual of the religious ideals it believed belong to Maori people, the Church was inattentive to the philosophy's limitations. As with aspects of its response to the Treaty of Waitangi, the modern Catholic Church's contributions to bicultural discourse have been significantly informed by popular political thought.⁵³ While both the Treaty of Waitangi and biculturalism can assist in the realisation of the Church's aspirations for Maori, neither is a panacea. The absence of a Treaty between black and white Australia is therefore of important political significance, but its absence might also draw to the attention of the New Zealand Church its over statement of the Treaty of Waitangi as a moral force requiring its engagement in Maori policy debate.⁵⁴ It highlights that the Church's own magisterium is a higher and more far-reaching moral authority that is the source of powerful and authoritative religious argument in support of the resolution of injustice and the advancement of religious rights that can only be attended to in the secular political realm. The Australian Church has more readily looked to the magisterium to inspire religious activism than has the New Zealand Church. The New Zealand hierarchy's lead has not been supported by comprehensive and systematic scholarship to give intellectual motivation to religious activism. In Australia, there has been a comprehensive body of informed Catholic scholarship, which provided a strong theoretical context in which to consider the application of the magisterium to concrete political questions. Australian Catholics were thus able to contribute to political debate from a clearly identifiable theologically informed Catholic perspective. That the debate received considerable public leadership from a Jesuit priest and legal advisor to the Australian Catholic Bishops' Conference indicated the propriety, from its own point of

⁵³ See Chapter Seven.

⁵⁴ This conclusion is drawn from the contrasts made between Australia and New Zealand in Chapters Five to Seven.

view, of religious activism in support of an unmistakably political aspiration.⁵⁵ Instead in New Zealand, there are several examples of a religious vacuum being filled by political activists appropriating the name of the Church to support their ambition, but often with recourse to secular political fashion rather than magisterial authority. So when the Church has made comment on political issues it has not always done so with a theological substance that would distinguish it from a secular political lobby group.

Summary

The Church's mission is religious. It is not political. But its religious objectives do not exist in isolation from the political order because the Church believes that human law should conform to the natural law. Human law is inevitably developed within the political order, which means that for the Church, a relationship with that order is essential to the fulfilling of its mission. The pursuit of religious objective invariably requires political means. When the Church has rejected this relationship it has become impotent in the promotion of the religious rights it believes are owed to indigenous peoples. It has also become impotent in its ability to challenge the political order when it pursues goals inconsistent with the Church's religious aspirations. When the Church has been so influenced by popular political and social beliefs that it has not seen its teachings compromised by the state it has furthermore become impotent in the promotion of its magisterium. Although there were isolated and important exceptions, one or more of these factors was generally evident in the response to indigenous peoples' political predicament in the pre-Second Vatican Council era in both Australia and New Zealand.

⁵⁵ Frank Brennan's influence over religious activism in the political arena is evident from the discussions in Chapters Five and Six.

The Churches of Australia and New Zealand have been more consistent and unequivocal in their support of indigenous aspirations since the influence of popular political and social discourses have established an environment more receptive of the Church's advocacy of its ideas. This more recent approach was encouraged by the Second Vatican Council and has characterised Church responses to indigenous policy in both Australia and New Zealand. General, although by no means absolute indifference, followed by enthusiastic advocacy of the magisterium's implications for the rights of indigenous peoples summarises the history of Roman Catholic responses to indigenous politics and policy in Australia and New Zealand.

BIBLIOGRAPHY

Primary Sources

- Aboriginal and Torres Strait Islander Council. *The Wik Judgement Means Farmers Can't Farm* [cited 25 June 2003]. Available from http://www.atsic.gov.au/News_Room/As_a_Matter_of_Fact/myth5_7.asp.
- Aboriginal Reconciliation Study Group, St. Francis Xavier Catholic Church, Goodna, Queensland,. "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill." Submission No. AB697, 1997.
- Ah Mat, Azalia Canuto. *Uniya Newsletter* Autumn 1995. Sydney. Society of Jesus.
- Alexander VI. *Inter Caetera* Vatican City, 1493 [cited 8 April 2003]. Available from <http://www.nativeweb.org/pages/legal/indig-inter-caetera.html>
- Anglican Church of Australia. *The Week of Prayer for Reconciliation 27 May - 3 June 2003. Reconciliation - It's Not Hard to Understand* The National Church Office, [cited 25 May 2003]. Available from http://www.anglican.org.au/nconews/index_RecWeek.htm.
- Anglican Diocese of Christchurch. *Diocese of Christchurch Bicultural Policy* 1998 [cited 25 May 2003]. Available from <http://www.chch.anglican.org.nz/bi-cultural/BiculturalPolicy1998.html>.
- Arbuckle, Gerry. "Biculturalism - a Demand of Justice." Unpublished Paper, 1988.
- . "The Maori in Crisis." Unpublished Paper. ACDA. DEL 53 1/1, 1970.
- Ashby, Brian. "Media Release for the Inauguration of the International Year against Racial Discrimination." ACDA Del 24-4/7, 1971.
- Auckland Diocesan Pastoral Council. "Report: Maori and Polynesian People in the Auckland Diocese." ACDA Mac 60-1, 1974.
- Australian Bureau of Statistics. *Census of Population and Housing* 2001 [cited 1 July 2003]. Available from <http://www.abs.gov.au/websitedbs/D3310114.NSF/4a256353001af3ed4b2562bb00121564/0fe8206bf6b0d763ca2567f4002146fc?OpenDocument>.
- Australian Catholic Bishops' Committee for Social Welfare, National Aboriginal and Torres Strait Islander Catholic Council, Australian Catholic Social Welfare Commission,. "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families." Sydney. 18 July 1996.

- Australian Catholic Bishops' Conference. "Social Justice Council Marks National Sorry Day." Media Release, Sydney, 26 May 1998.
- . "Bishops Urge Prayers for Parliamentarians". Media Release, Canberra, 28 November 1997.
- . "Reconciliation- a Statement in Solidarity." Media Release, Canberra, 29 May 1997.
- . "Submission on the Native Title Amendment Bill 1997 to the Parliamentary Joint Committee on Native Title and the Land Fund." Canberra. 15 October 1997.
- . "The Coming of the Third Millennium." Canberra. Pastoral Letter, 1997.
- . "Native Title: An Opportunity for Reconciliation." Media Statement, Canberra, 3 December 1993.
- . "International Year of Indigenous People. A New Partnership with Our Indigenous People." Canberra. Pastoral Letter, 10 December 1992.
- . "Land Rights." Media Release, Canberra, 5 March 1986.
- . "Letter to the Prime Minister." Canberra. 20 May 1985.
- . "Aboriginal People." Pastoral Letter, Canberra, 26 August 1980.
- . "The Catholic Commission for Justice and Peace." Canberra. Statement of the Bishops' Central Commission, March 28, 1980.
- . "Aborigines." Canberra. Pastoral Letter, August 1972.
- . "Racism." Canberra. Pastoral Letter, August 1971.
- . *Peace in the World*. Canberra. 1969.
- Australian Catholic Social Justice Council. "Racism. A Blight on Society." Sydney. Media Release, Sydney, 11 March 1996.
- . "Social Justice Sunday Statement." Sydney. 1978.
- Australian Church Leaders Joint Statement. Sydney. "Towards Reconciliation in Australian Society." 1988.
- Australian Council of Churches. "Don't Blow It: Churches Urge Caucus." Media Release, Sydney, 13 October 1993.
- Australians for Native Title and Reconciliation Coalition. Sydney. "Australian Citizens Statement on Native Title." 1997.

- Bathersby, John. "Address to Griffith University, 20 March 1992." Brisbane, 1992.
- Beazley, Kim. *Federal Parliamentary Debates* 28 May 1997 [cited 31 January 2002]. Available from <http://www.austlii.edu.au/auother/IndigLRes/1998/2/cth.html>.
- Becker, John. "Letter to Father Goossens, Mhm. Director, Mill Hill Mission, Matata." 29 January 1888. ACDA Luc 28-5.
- Benignus, Brother. Letter to Reverend Father J. Riordan, SM, 11 November 1936. MBAA, Hato Petera 1.
- . "Memorandum Submitted To: The Right Honourable the Prime Minister of New Zealand." MBAA, Hato Petera 1.
- Bolkus, Nick. *Federal Parliamentary Debates*, 5 November 1997 [cited 31 January 2002]. Available from <http://www.austlii.edu.au/auother/IndigLRes/1998/2/cth.html>.
- Bonner, Neville. In *The Catholic Weekly*. Sydney, 24 September 1978.
- . *Commonwealth Parliamentary Debates* [S] (1975).
- Brennan, Frank. "Reconciling Our Differences." In *Essays on Australian Reconciliation*, edited by Michelle Grattan. Melbourne: Bookman Press Pty Ltd, 2000.
- . *Sydney Morning Herald* 3 April 1998. [cited 3 April 1988]. Available from <http://www.smh.com.au>
- . "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act." Canberra: Commonwealth of Australia, 1997.
- . "Aboriginal Affairs Policy: Where to from Here?" Address to a Protest Rally. Parliament House Canberra, 1996. Unpublished.
- . "Those Rights after Mabo: Can We Walk up Ladder Together." Brisbane. *Catholic Leader* 7 April 1993.
- . "Land Rights, the Religious Factor." The Charles Strong Memorial Lecture. The International Congress for the Study of Religion, Melbourne, 13 July 1992. Unpublished.
- Brennan, Tim. "Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families." Darwin, 1996.
- Browne, Denis. "Terms of Reference for the Auckland Diocesan Commission for Justice and Peace." Auckland. 1993.

- . “Catholic Bishop Calls on Government to Honour Treaty of Waitangi.” Media Release, Auckland, 1990.
- . “Address Given at the Pre-Synod Day Gathering, Auckland.” ACDA Bro\AD-046. Doc 46b, 18 June 1989.
- . “New Year Message from Bishop Denis Browne.” ACDA Bro\AD-46\ File 46b, 3 January 1988.
- Carroll, Francis. *Catholic Leader* Brisbane. 11 June 2000.
- . *Catholic Voice* Canberra. 3 August 1998.
- Catholic Commission for Justice Peace and Development. “Election Boycott Statement. Report of Meeting Held in Wellington, 21-23 September 1990.” ACDA Bro 1, 1990.
- . “Honour the Treaty, Says Catholic Commission.” Media Release, Wellington, 14 March 1989.
- Catholic Commission for Justice Peace and Development, and Te Runanga o te Hahi Katorika ki Aotearoa. “Submission to the Parliamentary Committee on the Maori Fisheries Bill 1988”, Wellington. 31 October 1988. Unpublished.
- Catholic Commission for Justice Peace and Development, and Te Runanga o te Hahi Katorika ki Aotearoa. “Submission to the Parliamentary Electoral Law Select Committee on the Electoral Law Reform Bill 1989.” Wellington. 30 November, 1989.
- Catholic Leader*. Brisbane. 31 December 1989, 8.
- Catholic Social Services, Archdiocese of Melbourne. “Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill 1997.” Submission No. AB1161, 1997.
- Catholic Women’s League. Pahiatua Branch. “Submission to the Royal Commission on Social Policy.” Submission 2170, 1987.
- Central Council of the Associated Catholic Clubs. Meeting Minutes. MAW 195/5/8, 1948.
- “The City of Newcastle. Today and Tomorrow: A Statement of Direction.” Newcastle. 26 May 1997.
- Clancy, Edward. “Land Rights at the Crossroads.” Quoted in Owen, Ray *The Catholic Leader*, Brisbane. 30 November 1997.

- Clement XIII. *A Quo Die* Vatican City, 1758 [cited 26 July 1999]. Available from <http://www.ewtn.com/library/ENCYC/C13AQUOD.HTM>.
- Commonwealth Parliamentary Debates (H)* (23 August 1988). Canberra. Commonwealth of Australia.
- CommonWEALTH* 1997. Sydney. Australian Catholic Bishops' Committee for Social Welfare.
- Consedine, Jim. "Morality and the Law. The Relationship between Restorative Justice and the Common Good." The Neil Williamson Memorial Lecture, Christchurch, 11 June 1998. Unpublished
- Constitution of the Anglican Church in New Zealand, Aotearoa and Polynesia* [cited 25 May 2003]. Available from <http://www.anglican.org.nz/CanonsReprint/English.pdf>.
- The Constitution of the Commonwealth of Australia*. [Sydney, N.S.W.]: Constitutional Commission, 1987.
- Council for Aboriginal Reconciliation. [cited 7 January 2003]. Available from <http://www.austlii.edu.au/au/orgs/car/>.
- Cullinane, Peter. "Social Sin, Sinful Structures." Speech to the Pacific Partnership for Human Development Assembly, Auckland, 3-11 December 1988. Unpublished
- Curran, Liz. Open Letter to Hon John Howard, Prime Minister, Melbourne, 27 February 1998.
- . "It Is Time for the People to Lead and the Leaders Will Have to Follow.". Media Release, Melbourne, 9 April 1998.
- . "Reconciliation: More Than Merely Words and Concerns About Money.". Media Release, Melbourne, 8 January 1998.
- Dance, Kevin. "We Are Sorry" Words Which Aren't Enough, but a Vital Beginning.". Media Release, Sydney, 2 May 1998."
- . Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act." Canberra: Commonwealth of Australia, 16 October 1997.
- Daneels, Godfried. "Homily." Cathedral of the Blessed Sacrament, Christchurch, 1990. In *The New Zealand Tablet* 16 May 1990.
- de Groot, Jack. ."Letter to Peter C. Grundy, Committee Secretary, Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund." Melbourne. 1 October 1996. Unpublished.

- . Letter to Hon. Jeff Kennett, Premier of Victoria. Melbourne 21 July 1993. Unpublished.
- Deane, William. "Australia Day 2000 Message." In *Essays on Australian Reconciliation*, edited by Michelle Grattan. Melbourne: Bookman Press Pty Ltd, 2000.
- . *Australia Day 1998 Address by Sir William Deane Governor-General of the Commonwealth of Australia* [cited 1 July 2003]. Available from <http://www.gg.gov.au/speeches/textonly/speeches/1998/980126.html>
- Durning, J. Letter to the Editor, *The Dominion*, Wellington, 22 July 1985. MAW. 202/6.
- . "Homily." St Mary of the Angels Church, Wellington. MAW, 1963.
- . Letter to R. Ropiha. Undersecretary for Maori Affairs, MAW. MM1, 2 June 1950.
- English, Bill. *Address to the National Party Lower North Island Regional Conference* Solway Park Hotel, Masterton, 4 May 2003 [cited 15 May 2003]. Available from <http://www.national.org.nz/wcontent.asp?PageID=100014891>.
- . *Unity and Development Are Better Than Division and Dependency* Speech to the New Zealand National Party, 22 January 2003, [cited 24 February 2003]. Available from <http://www.national.org.nz/wcontent.asp?PageID=100013485>.
- Entsch, Warren. *The Age*. Melbourne. 24 November 1997. [cited 24 November 1997]. Available from <http://www.theage.com.au>
- Faulkner, Leonard A. "The Year of Indigenous Peoples Christians and Reconciliation." Pastoral Letter. Adelaide. Christmas 1993. Unpublished.
- . "Pastoral Letter to Christ's Faithful of the Archdiocese of Adelaide." 18 January 1988.
- Gilroy, Norman. In *The Catholic Weekly*. Sydney, 1953.
- Greenup, Rob. *The Age* 24 November 1997. [cited 24 November 1997]. Available from <http://www.theage.com.au>
- Gunn, W. In *Queensland Parliamentary Debates*. 2 April 1985.
- Hanson, Pauline. *The Age* 20 September 1998. [cited 20 September 1998]. Available from <http://www.theage.com.au>
- Herft, Roger and Michael Malone. Anglican Bishop of Newcastle and Roman Catholic Bishop of Maitland-Newcastle. "Letter to Hon. John Howard, Prime Minister." 9 April 1998.

- Heron, John. Letter to Father Frank Brennan, SJ, 21 August 1996.
- Howard, John. *The Age*, 8 December 2000. [cited 8 December 2000]. Available from <http://www.theage.com.au>
- . *Sydney Morning Herald*, 27 January 2000. [cited 27 January 2000]. Available from <http://www.smh.com.au>
- . "Practical Reconciliation." In *Essays on Australian Reconciliation*, edited by Michelle Grattan. Melbourne: Bookman Press Pty Ltd, 2000.
- . In *Commonwealth Parliamentary Debates (H)*. 23 August 1988.
- Howson, Peter. *Sydney Morning Herald* 10 May 2000. [cited 10 May 2000]. Available from <http://www.smh.com.au>
- Hughes, Robert. *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868*. London: Collins Harvill, 1987.
- Human Rights and Equal Opportunities Commission. *Bringing Them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* April 1997 [cited 29 January 2003]. Available from <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/hreoc/stolen/prelim.html>
- Innocent IV, Commentary on *Quod Super Hiis* (1245 [cited 6 October 2002]); available from <http://faculty.cua.edu/pennington/FolgerEmpire/InnocentIV.htm>
- John Paul II. *Ecclesia in Oceania* Vatican City, 2001 [cited 13 December 200]. Available from http://www.vatican.va/holy_father/john_paul_ii/apost_exhortations/documents/hf_jp-ii_exh_20011122_ecclesia-in-oceania_en.html.
- . *Memory and Reconciliation: The Church and the Faults of the Past* Vatican City, 1999 [cited 1 July 2003]. Available from http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20000307_memory-reconc-itc_en.html.
- . "Address to Aboriginal and Torres Strait Islanders." In *Always the Same Spirit*, edited by Sandie Cornish. Homebush, NSW: St. Paul's, 1996.
- . *Centesimus Annus* Vatican City, 1991 [cited 2 March 1998]. Available from <http://www.ewtn.com/library/ENCYC/JP2HUNDR.TXT>.
- . "The Pope's New Year Message. Respect for Minorities." In *The Tablet*, 31 December 1988.
- . *Sollicitudo Rei Socialis* Vatican City., 1987 [cited 3 February 1998]. Available from <http://www.ewtn.com/library/ENCYC/JP2SOCIA.TXT>.

- . *In Peace: The Message of the Gospel. Complete Texts of Addresses Given by Pope John Paul II During His Pastoral Visit to New Zealand 22-24 November 1986*. Wellington: Catholic Communications for the New Zealand Catholic Bishops' Conference, 1986.
- . *L'Osservatore Romano* 8 October 1984.
- . *Catechism of the Catholic Church Apostolic Constitution Fidei Depositum* Vatican City, 1983 [cited 6 October 2002]. Available from <http://www.christusrex.org/www1/CDHN/ccc.html>.
- . *The Code of Canon Law*. London: Collins Liturgical Publications, 1983.
- . *Opening Address at the Puebla Conference* Vatican City, 1979 [cited 10 January 2000]. Available from <http://www.ewtn.com/library/PAPALDOC/JP791228.HTM>.
- . *Redemptor Hominis* Vatican City, 1979 [cited 12 December 2002]. Available from http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis_en.html.
- John XXIII. *Pacem in Terris* Vatican City, 1963 [cited 3 March 1998]. Available from <http://www.ewtn.com/library/ENCYC/J23PACEM.TXT>.
- Joint Methodist-Presbyterian Public Questions Committee "Politics Not Justice: The Government's Treaty Settlements Policy." 1999.
- . "Towards a Maori Criminal Justice System." October 1995.
- . "Tino Rangatiratanga." July 1993.
- . "Submission to the Parliamentary Maori Affairs Select Committee on the Ministry of Maori Development Bill." November 1991.
- . "Constitutional Reform in Aotearoa." May 1991.
- . "Response to the Crown Submission on the Maori Fisheries Bill." 15 May 1989.
- . "Submission to Hon. Koro Wetere on Te Urupare Rangapu." December 1988.
- . "Submission to the Parliamentary Committee on the Maori Fisheries Bill, 31 October 1988."
- 'Justitia'. *The Freeman's Journal* 11 November 1881.
- Keating, Paul. "The Redfern Park Speech." In *Essays on Australian Reconciliation*, edited by Michelle Grattan. Melbourne: Bookman Press Pty Ltd, 2000.

- Kennedy, Noel. *The Age* 20 September 1998. [cited 20 September 1998]. Available from <http://www.theage.com.au>
- Kennett, Jeff. *Victorian Parliamentary Debates* 17 September 1997 [cited 31 January 2002)]. Available from <http://www.austlii.edu.au/au/au/other/IndigLRes/1998/2/vic.html>.
- Latin American Bishops. *Justice* 1968 [cited 5 October 2002]. Available from <http://www.shc.edu/theolibrary/resources/medjust.htm>.
- Leo XIII. *Rerum Novarum* Vatican City, 1891 [cited 12 March 1998]. Available from <http://www.ewtn.com/library/ENCYC/L13RERUM.TXT>.
- . *Sapientiae Christiannae* Vatican City, 1890 [cited 12 March 1998]. Available from <http://www.ewtn.com/library/ENCYC/L13SAPIE.TXT>.
- . *In Plurimis* Vatican City, 1888 [cited 3 February 1998]. Available from <http://www.ewtn.com/library/ENCYC/L13ABL.TXT>.
- . *Libertas* Vatican City, 1888 [cited 12 March 1988]. Available from <http://www.ewtn.com/library/ENCYC/L13LIBER.TXT>.
- . *Diuturnum* Vatican City, 1881 [cited 10 April 2003]. Available from http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_29061881_diuturnum_en.html.
- Liston, James. "Observations Re the Maori Race. Report to His Excellency the Apostolic Delegate." October 1934. ACDA. LIS 106-1., 1934.
- Little, Frank. "Letter to Hon. Jeff Kennett, Premier of Victoria, 22 July 1993."
- Mabo and Others v. Queensland (No. 2)*, 175 CLR 1 F.C. 92/014 (1992). High Court of Australia.
- Macarthur Catholic Justice, Development and Welfare Network. "Letter to Camden City Council," 23 March, 1998.
- MacKillop, Donald. *Sydney Herald* 23 December 1892.
- Major Superiors of Roman Catholic Religious Orders. "Statement on Biculturalism in New Zealand." Media Release, September, 1988.
- Manning, Kevin. "The Vatican Calls for Land Reform." Media Release, 29 January 1998.
- . "Racism a Blight on Society." Media Release, Sydney, 11 March 1996.
- . "Land Fund Act 1995: A Major Step." Media Release, Sydney, June 1995.

- Maori Language Act 1987* GP Print, [cited 3 May 2003]. Available from <http://rangi.knowledge-basket.co.nz/gpacts/public/text/1987/an/176.html>.
- Mariu, Max. Opening Address to the National Maori Leadership Hui, Turangi, 23 June 1989.
- Marquess of Normanby. "Instructions to Captain William Hobson, 14 August 1839." Great Britain: Parliamentary Papers 1844, 16/37, 1844.
- Martin, Diarmuid. *Individual and Collective Conversion of Hearts* Vatican City, 2001 [cited 6 October 2002]. Available from <http://www.ewtn.com/library/curia/statrati.htm>.
- Mayers, Naomi. In *The Catholic Weekly*, 24 September 1978.
- Meeking, Basil. Homily, Cathedral of the Blessed Sacrament, Christchurch, 26 November 1989.
- Miles, Chris. Media Release, Canberra, 19 May 1988.
- Minchin, Nick. *Sydney Morning Herald* 6 March 1998. [cited 6 March 1998]. Available from <http://www.smh.com.au>
- Mundine, Graeme. "Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act." *Official Hansard Report Wednesday 24 September 1997*. Canberra: Commonwealth of Australia, 1997.
- New Zealand Catholic Bishops. "Meeting Minutes, 4 May 1938." ACDA. LIS 2-2/27, 1938.
- New Zealand Gazette*. Volume 47, 1867.
- New Zealand Department of Statistics. *Statistics: Census of Population and Dwellings: March 1991*. Wellington, N.Z.: Dept. of Statistics, 1991.
- New Zealand Maori Council v. Attorney General*, 1987. 1 NZLR, 641. New Zealand Court of Appeal.
- New Zealand Waitangi Tribunal., and E. T. J. Durie. *Report of the Waitangi Tribunal on the Te Reo Maori Claim (Wai 11)*. 2nd ed. Wellington, N.Z.: The Tribunal, 1989.
- Ngai Tahu Claims Settlement Act 1988* ([cited 2 June 2003]); available from http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes.
- Nicholas V. *Romanus Pontifex 1455* Vatican City, 1455 [cited 8 April 2003]. Available from <http://cca2000.4t.com/bull1.htm>.

- Northland/Wilton Parish Committee for Evangelisation. "Submission to the Royal Commission on Social Policy." Submission 914, 1987.
- Paul III. *Sublimis Dei* Vatican City, 1537 [cited 3 February 1998]. Available from <http://www.csn.net/advent/docs/pa03sd.htm>.
- Paul VI. *Evangelii Nuntiandi* Vatican City, 1975 [cited 7 January 2000]. Available from http://www.vatican.va/holy_father/paul_vi/apost_exhortations/documents/hf_p-vi_exh_19751208_evangelii-nuntiandi_en.html
- . *Every Man Is My Brother. Message of His Holiness Pope Paul VI for the Celebration of the World Day of Peace. The First Message: Invitation to Observe a "World Day of Peace" on 1st January of Each New Year* Vatican City, 1 January 1971 [cited 6 October 2002]. Available from <http://www.fju.edu.tw/homepage2/peace/1968e.htm>.
- . *Octogesima Adveniens* 1971 [cited 4 September 2002]. Available from <http://www.osjspm.org/cst/oa.htm>.
- . "Speech to Indigenous Australians." Sydney, 1970.
- . *Nostra Aetate Declaration on the Relation of the Church to Non-Christian Religions* Vatican City, 1965 [cited 28 January 2003]. Available from <http://www.ewtn.com/library/COUNCILS/V2NON.HTM>.
- . *Message of His Holiness Pope Paul VI for the World Day of Peace, 1 January 1968* (Vatican City, 1 January 1968: [cited 6 October 2002]; available from http://www.vatican.va/holy_father/paul_vi/messages/peace/documents/hf_p-vi_mes_19671208_i-world-day-for-peace_en.html
- . *Populorum Progressio* Vatican City, 1967 [cited 2 March 1998]. Available from <http://www.ewtn.com/library/ENCYC/P6DEVELO.TXT>.
- Peardon, Annette. *Tasmanian Parliamentary Debates* 13 August 1997 [cited 31 January 2002]. Available from <http://www.austlii.edu.au/other/IndigLRes/19989/2/tas.html>.
- Pell, George. "Homily, Aboriginal and Torres Strait Islander Sunday." St. Patrick's Cathedral, Melbourne, 5 July 1998.
- Petition to John Paul II from the World's Oldest Living Culture. Recognition: The Way Forward.* North Blackburn, Victoria: Australian Catholic Social Justice Council, 1993.
- Pius XI. *L'Osservatore Romano* 30 July 1938.

- Pius XII. *Humani Generis* Vatican City, 1950 [cited 6 September 2002]. Available from http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_12081950_humani-generis_en.html.
- Polding, John. In *New South Wales Aborigines. Report from the Select Committee on the Condition on the Aborigines*. Sydney: Legislative Council of New South Wales, 1845.
- Pompallier, Jean Baptiste. "Letter to the Catholic Fathers of Maori Tribes." 21 December 1863. ACDA Pom 15-3/8., 1863.
- Pontifical Council for Justice and Peace. *The Church and Racism: An Introductory Update* Vatican City, 2001 [cited 6 October 2002]. Available from <http://www.ewtn.com/library/curia/pcjpchra.htm>.
- . *The Church and Racism: Towards a More Fraternal Society*. Vatican City: Pontifical Council for Justice and Peace, 1988.
- . *Pontifical Council for Justice and Peace* Vatican City, undated [cited 8 October 2002]. Available from http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_pro_20011004_en.html.
- "Pope Paul Is against Racism." *The Marist Messenger* February 1971, 5.
- Power, Patrick. "Justice and Wik." *CommonWealth* 1997.
- Reilly, Tony. "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Native Title Amendment Bill 1997." Submission No. AB174, 1997.
- Resource Management Act 1991* [cited 2 June 2003]. Available from http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes
- Royal Commission into Aboriginal Deaths in Custody. *National Report*. Canberra: Australian Govt. Pub. Service, 1991.
- Rundle, Tony. *Tasmanian Parliamentary Debates* 13 August 1997 [cited 31 January 2002]. Available from <http://www.austlii.edu.au/other/IndigLRes/19989/2/tas.html>.
- Sacred Congregation for the Doctrine of the Faith. *Instruction on Christian Freedom and Liberation* Vatican City, 1986 [cited 10 January 2000]. Available from <http://www.ewtn.com/library/CURIA/CDFLIBR2.HTM>.
- . *Instruction on Certain Aspects of the "Theology of Liberation"* Vatican City, 1984 [cited 10 January 2000]. Available from <http://www.ewtn.com/library/CURIA/CDFLIBR1.HTM>.

- Salesian Bulletin. *Salesian Bulletin* (June 2000) [cited 11 November 2002]. Available from <http://www.donbosco.asn.au/Bulletins/2000/june/convict.htm>.
- Saunders, Christopher. *Sydney Morning Herald* 3 April 1998. [cited 3 April 1998]. Available from <http://www.smh.com.au>
- . Media Release, Broome, 31 January 1998.
- . “Statement to the Human Rights and Equal Opportunities Commission. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.” Broome, 1996.
- Social Justice Action Group, Diocese of Rockhampton. “Petition to Hon. John Howard, Prime Minister.” 1997.
- St. John’s College, Hamilton, Board of Governors,. “Submission to the Royal Commission on Social Policy.” Submission 2934, 1987.
- Statistics New Zealand. *Latest Information* 2003 [cited 1 July 2003]. Available from <http://www.stats.govt.nz/>.
- Sunday Territorian*, 30 November 1986.
- Sydney Herald*, 7 September 1838.
- Sydney Morning Herald*, 3 May 1997. [cited 3 May 1997]. Available from <http://www.smh.com.au>
- Temm, Justice Paul. “Biculturalism and the Rights of Minorities.” Lecture. Dunedin, 1991.
- The Bishops of Australia. “The Bishops of Australia on Christian Duty to the Aboriginal People.” 1869. Pastoral Letter.
- The Catholic Weekly*, 24 September 1978. Sydney.
- The Freeman’s Journal* March 1882 Auckland.
- The Freeman’s Journal* 11 November 1881. Auckland.
- The General Secretariat of the Synod of Bishops and Libreria Editrice. *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*. Vatican, 1998.
- The Major Superiors of the Religious of Australia. “A Call to the Prime Minister.” 1986.
- The Marist Messenger. “A Thin Crack in the Apartheid Wall.” *The Marist Messenger* 1 August 1970, 2.

- . “The All Black Tour.” *Marist Messenger* May 1969, 2.
- . “Life among the Maoris.” *The Marist Messenger* 1 January 1953, 21.
- . “There Is Neither Gentile nor Jew: Christ Is All and in All.” 1 April 1947, 6.
- . “The Maoris Are Calling.” *The Marist Messenger* 1 March 1947, 11.
- . *The Marist Messenger* September 1939, 29.
- The Pallottine Order. “Submission to the Human Rights and Equal Opportunity Commission. The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.” 1996.
- The Second Vatican Council. *Ad Gentes* Vatican City, 1965 [cited 14 March 1998]. Available from <http://www.cin.org/v2miss.html>.
- . *Declaration on Religious Freedom Dignitatis Humanae on the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious* Vatican City, 1965 [cited 23 October 2002]. Available from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.
- . *Gaudium Et Spes* Vatican City, 1965 [cited 15 March 1998]. Available from <http://www.cin.org/v2modwor.html>.
- . *Optatam Totius* Vatican City, 1965 [cited 26 September 2002]. Available from <http://www.cin.org/v2priest.html>.
- . *Lumen Gentium* Vatican City, 1964 [cited 7 January 2000]. Available from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.
- Treaty of Waitangi*. In Orange, Claudia. *The Treaty of Waitangi*. Wellington: Allen and Unwin, Port Nicholson Press, 1987.
- Treaty of Waitangi Amendment Act 1985*. Wellington. GP Print, 1985.
- Treaty of Waitangi Amendment Act 1988* GP Print, [cited 3 May 2003]. Available from <http://rangi.knowledge-basket.co.nz/gpacts/public/text/1988/se/233se2.html>.
- United Nations. *Draft United Nations Declaration on the Rights of Indigenous Peoples* United Nations, 1993 [cited 28 January 2001]. Available from <http://.cwis.org/drft9329.html>.
- Valadian, Margaret. “An Indigenous Perspective on Social Action and the Eradication of Poverty.” Paper presented at the People First Conference 1997. Canberra. Australian Catholic Bishops’ Conference. 1997.

- Vaney, Neil. "Human Rights and the Theological Tradition." Stout Research Centre Seminar on Human Rights. Victoria University of Wellington.: Unpublished, 1998.
- Vickie, Stancea. "Submission to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund., Native Title Amendment Bill 1997." Submission No. AB47. Social Action Committee of the Leaders of Catholic Religious Orders in Victoria, 1997.
- Waikato Raupatu Claims Settlement Act 1995*. Wellington. GP Print, 1995.
- Waitangi Day Act 1990*. Wellington. GP Print, 1990.
- Walker, Vicki. Letter to Hon. Jeff Kennett, Premier of Victoria, 4 August 1993.
- Wanders, T. In *Whiti Ora*, Easter 1958.
- Warmbrand, Fred. Department of the Premier and Cabinet, Victoria, Letter to Vicki Walker, Co-ordinator Melbourne Aboriginal Catholic Ministry, 1 September 1993.
- Whiti Ora* September 1972. Wellington. Society of Mary.
- . June 1972. Wellington. Society of Mary.
- . February 1966. Wellington. Society of Mary.
- . July 1964. Wellington. Society of Mary.
- . September 1951. Wellington. Society of Mary.
- . March 1951. Wellington. Society of Mary.
- . March 1949. Wellington. Society of Mary.
- Whitlam, E.G. "Aborigines and Society." Canberra: Media Statement in Australian Government Digest, 1 (2), 1973.
- The Wik Peoples v. the State of Queensland & Ors; the Thayorre People v. the State of Queensland & Ors* (High Court of Australia, 1996: [cited]); available from http://www.austlii.edu.au/au/cases/cth/high_ct/unrep299.html.
- Williams, Thomas. "1990 Act of Commitment." Cathedral of the Blessed Sacrament, Christchurch, 29 April 1990, In *The New Zealand Tablet*, 6 June 1990, 13.
- Wiremu Tamihana Te Waharoa. "Letter to Bishop Jean Baptiste Pompallier." 9 August 1864, ACDA Pom 15 3/8., 1864.
- Wood, Shane. "Kimberley Community Profile." 3 November 1998. Unpublished.

———.Media Release, Broome, 26 May 1988.

———. Media Release, Broome, 20 May 1998.

Zealandia 5 February 1984. Auckland.

Secondary Sources

- Aquinas, Thomas. *On the Truth of the Catholic Faith: Summa Contra Gentiles*. Garden City, N.Y: Image Books, 1955.
- . *St Thomas Aquinas, Theological Texts*. Translated by Thomas Gilby. Edited by Thomas Gilby. London: Oxford University Press, 1955.
- . *Summa Theologica* New Advent, [cited 6 October 2002]. Available from <http://www.newadvent.org/summa/209002.htm>.
- Attlee, Peggy. "Christianity and Aboriginal Culture." *New Blackfriars*, no. 68 (1987): 126-132.
- Australasian Legal Information Institute. *Sharing History - the Exclusion and Control of Indigenous Australians* Australasian Legal Information Institute, 1988 [cited 25 November, 1998]. Available from <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/car/kip4/10.html>
- Bennett, Scott. *Aborigines and Political Power*. Sydney: Allen and Unwin, 1989.
- Benton, Richard A. "The Maori Language, the Treaty of Waitangi, and Race Relations in New Zealand." A Paper Presented to the Understanding Waitangi Seminar of the Archdiocese of Wellington Commission for Evangelisation, Justice and Development, Wellington 15 October 1983.
- Boff, Leonardo, and Clodovis Boff. *Introducing Liberation Theology*. Tunbridge Wells, Kent: Burns and Oates/Search Press Limited, 1987.
- Bohan, Edmund. *Edward Stafford: New Zealand's First Statesman*. Christchurch: Hazard Press, 1994.
- Brennan, Frank. "A Free Speaking Church Goer's Guide to Wik in '98." *Uniya Focus* No. 3 March 1998. Sydney. Uniya Jesuit Social Justice Centre, 1998.
- . In *Eureka Street* 3 August 1998 [cited 3 August 1998]. Available from www.openplanet.com.au/content/eureka/html.
- . *A Critique of the Howard Government's Ten Point Wik Plan* 1997 [cited 3 February 1998]. Available from <http://www.austlii.edu.au/rsjlibrary/uniya/brennan21.6.97.html>.
- . *A Critique of the Native Title Amendment Bill 1997* [cited 3 February 1998]. Available from <http://www.austlii.edu.au/rsjlibrary/uniya/brennan8.9.97.html>.
- . *The Wik Debate: Its Impact on Aborigines, Pastoralists and Miners, Frontlines*. Sydney, N.S.W.: UNSW Press, 1998.

- . “Mabo and the Future of Aboriginal Reconciliation.” *St. Mark’s Review* Winter 1994 (1994): 4-12.
- . “Social and Political Influences on Aboriginal Spirituality.” *The Way Supplement* 78 Autumn (1993): 80-104.
- . “Waiting for the Resolution.” *The Australasian Catholic Record* 64, no. 4 (1989).
- . “Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility.” In *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, edited by Frank Brennan, William Daniel, John Egan and John Honner. Blackburn, Victoria: Collins Dove, 1986.
- . “Land Rights in 1985 and Beyond.” *Nelen Yubu*, no. 26 (1986).
- . “The End of Mr. Holding’s Dreaming.” *The Catholic Worker*, 1986.
- Burns, Gene. *The Frontiers of Catholicism: The Politics of Ideology in a Liberal World*. Los Angeles: University of California Press, 1992.
- Cameron, Alan. “Law, Justice and the State.” In *Voices for Justice: Church, Law and State in New Zealand*, edited by Jonathan Boston and Alan Cameron. Palmerston North: The Dunmore Press, 1994.
- Catholic Archdiocese of Perth, Western Australia. *The Archbishop’s Predecessors* 2002 [cited 11 November 2002]. Available from http://www.perth.catholic.org.au/Archbishop/Predecessors/John_Brady/john_brady.html.
- Catholic Hierarchy. *Statistics by Country by Catholic Population* 2003 [cited 1 July 2003]. Available from <http://www.catholic-hierarchy.org/country/sc1.html>.
- Chesterman, John, and Brian Galligan. *Citizens without Rights: Aborigines and Australian Citizenship*. Cambridge: Cambridge University Press, 1997.
- Cheyne, Sonia. “Here I Am Lord, in 1990: Our Rights and Responsibilities under the Treaty.” Address to the Dunedin Diocesan Conference of the Catholic Women’s League, 1990. In *The New Zealand Tablet* Hune 13 1990: 6-11.
- Congregation for the Doctrine of the Faith. *Profile* Vatican City, [cited 6 October 2002]. Available from http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html.
- Consedine, Robert, and Joanna Consedine. *Healing Our History: The Challenge of the Treaty of Waitangi*. Auckland: Penguin Books, 2001.

- The Constitution of the Commonwealth of Australia*. [Sydney, N.S.W.]: Constitutional Commission, 1987.
- Coombs, H.C. "Government Should Negotiate a Treaty as Guarantee of the Rights and Security of Aborigine." *The Catholic Leader*, July 13 1980.
- Cornish, Sandie. *The Catholic Human Rights Tradition and the Rights of Indigenous Peoples*. North Blackburn, Victoria: Collins Dove, 1994.
- Davidson, Janet. "The Polynesian Foundation." In *The Oxford History of New Zealand*, edited by W. H. Oliver and B. R. Williams. Wellington: Oxford University Press, 1981.
- de Las Casas, Bartolome. "Defense of the Indians." In *The Human Rights Reader. New York. Routledge*, edited by Micheline R Ishay, 1997.
- de Torre, Joseph M. *Human Rights, Natural Law and Thomas Aquinas* 2000 [cited 6 October 2002]. Available from <http://www.catholicsocialscientists.org/Article--deTorre--Human%20Rights.htm>.
- de Vitoria, Francisco. *The First Reflection on the Indians Lately Discovered* 1532 [cited 1 October 2002]. Available from http://www.constitution.org/victoria/victoria_4.htm.
- Deck, Allan Figueroa. "Culture." In *The New Dictionary of Catholic Social Thought*, edited by Judith A Dwyer. Collegeville, Minnesota: The Liturgical Press., 1994.
- Dodson, Pat. "Where Are We, after 200 Years of Colonisation?" *Land Rights News* (1988): 5-6.
- Dunstall, Graeme. "The Social Pattern." In *The Oxford History of New Zealand*, edited by W. H. Oliver and B. R. Williams. Oxford: Oxford University Press, 1981.
- Durack, Mary. *The Rock and the Sand*. London: Constable, 1969.
- Durie, Mason. *Te Mana, Te Kawanatanga: The Politics of Maori Self-Determination*. Auckland: Oxford University Press, 1998.
- Durning, J. "Treaty of Waitangi Discussion." Unpublished. MAW. ACC 202., 1985.
- . "Biculturalism Today." Unpublished Paper. MAW. ACC 202, Undated.
- Egan, John. "The Treaty of Waitangi and Catholic Social Teaching." Wellington: Catholic Commission for Justice, Peace and Development, 1990.
- Egan, John, SJ. "Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility." In *Finding Common Ground : An Assessment of the*

- Bases of Aboriginal Land Rights*, edited by Frank Brennan, John Egan and John Honner. Blackburn, Vic.: Dove Communications, 1986.
- . “The Moral Basis of Land Rights.” In *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, edited by Frank Brennan, William Daniel, John Egan and John Honner. Blackburn, Victoria: Collins Dove, 1986.
- Endicott, Michael A. *The Augustinians in Far North Queensland 1883-1941*. Brookvale, New South Wales: The Augustinian Historical Commission, 1988.
- Engel, Frank G. “Australia: Its Aborigines and Its Mission Boards.” *International Review of Mission* (July 1970): 297-303.
- Fletcher, Christine. *Aboriginal Politics: Intergovernmental Relations*. Melbourne: Melbourne University Press, 1992.
- Fletcher, Frank. “Mabo and Wik as Spiritual Events.” Discussion Paper for the Australian Conference of Leaders of Religious Institutes, 1998.
- Flood, Bernard. “Bishop Doody and the Aborigines.” *The Australasian Catholic Record* Vol LVI, no. 2 (1979): 115-126.
- Fortescue, Adrian. *The Early Papacy to the Council of Chalcedon in 451*. Edited by Scott Reid: Saint Augustine’s Press, 1997.
- Franklin, Margaret Ann. *Black and White Australians*. South Yarra, Vic.: Heinemann Educational Australia, 1976.
- Fremantle Arts Centre Press. *The Background to My Place* Fremantle Arts Centre Press, [cited 3 January 2003]. Available from <http://members.iinet.net.au/~facp/myplacenotes.html>.
- Gardiner-Garden, John. *Background Paper 11 1996-97. The Origin of Commonwealth Involvement in Indigenous Affairs and the 1967 Referendum* Parliament of Australia: Department of the Parliamentary Library, 1996-1997 [cited 27 April 2003]. Available from <http://www.aph.gov.au/library/pubs/bp/1996-97/97bp11.htm>.
- Garrett, Graeme. “A Place of One’s Own: Reflections on a Theology of Space.” *St Mark’s Review* (1993: 4): 3-7.
- Giles, William. *Australia Twice Traversed: The Romance of Exploration, Being the Journals of Five Exploring Expeditions into and through Central South Australia, and Western Australia, from 1872 to 1876*. London: Low, Marston, Searle & Rivington, 1889.

- Glenn, Gary. *Catholic Social Science Review, Volume VI Catholic Social Thought and the American Regime.*, 2001 [cited 24 September 2002]. Available from <http://www.catholicsocialscientists.org>.
- Graham, Jeanine. *Frederick Weld Dictionary of New Zealand Biography*, [cited 14 November 2002]. Available from <http://www.dnzb.govt.nz/dnzb/>.
- Gray, Geoffrey. "From Nomadism to Citizenship: A P Elkin and Aboriginal Advancement." In *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, edited by Nicolas Petersen and Will Sanders. Cambridge: Cambridge University Press, 1998.
- Habel, Norman C. *Reconciliation: Searching for Australia's Soul*. Sydney: Harper Collins, 1999.
- Hall, L.A. . "People of the Problem." *St. Mark's Review* December 1981: 37-40.
- Hally, Cyril. "Reconstructing the Moral Order of Society by Forgiveness and Reconciliation." *Aboriginal Issues Newsletter* 2, no. 2 (1998).
- Harris, John. *200 Years of Aboriginal Encounter with Christianity: A Story of Hope: One Blood*. Sutherland New South Wales: Albatross Books Pty. Limited, 1990.
- Henry, Hugh. "Between Gospel and Policy: The Catholic and Social Problems." In *Chaining Australia: Church Bureaucracies and Political Economy*, edited by Geoffrey Brennan, and Williams, John K. St Leonard's, New South Wales: The Centre for Independent Studies., 1984.
- Heywood, Andrew. *Key Concepts in Politics* (Basingstoke: Macmillan, 2000).
- The University of Scranton *History of the Jesuits*, [cited 6 October 2002]. Available from <http://www.uofs.edu/admin/jeshist.html>.
- Holmes, Jean, and Campbell Sharman. *The Australian Federal System*. Sydney: George, Allen and Unwin, 1977.
- Hughes, Robert. *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868*. London: Collins Harvill, 1987.
- Keenan, Danny. "A Permanent Expedient: MMP and Maori Politics." *He Pukenga Korero*, no. 1 Koanga (Spring) 1996.
- Kerkhofs, Jan. "Australia: Some Issues Facing the Catholic Church." *Pro Mundi Vita Dossiers, Asia Australasia Dossier No 15:1* (1980): 2-43.
- Kirk, John M. *Politics and the Catholic Church in Nicaragua*. Gainesville, Florida: University Press of Florida, 1992.

- Lerch, J.R. "Teaching Authority of the Church." In *New Catholic Encyclopedia, Volume Viii*. Washington, D.C.: The Catholic University of America, 1967.
- Levine, Daniel H. *Religion and Politics in Latin American: The Catholic Church in Venezuela and Colombia*. Princeton, New Jersey: Princeton University Press, 1981.
- "Life among the Maoris." *The Marist Messenger* 1 January 1953, 21.
- Locke, John. *Locke on Civil Government*. Edited by Henry Morley. Second ed. London: George Routledge and Sons, 1887.
- Love, Ralph. "Policies of Frustration: The Growth of Maori Politics: The Ratana/Labour Era." PhD thesis, Victoria University of Wellington, 1977.
- Lynch, Edward A. *The Retreat of Liberation Theology* *The Homiletic & Pastoral Review*, 1994 [cited 7 January, 2000]. Available from <http://www.ewtn.com/library/ISSUES/LIBERATE.TXT>.
- Maaka, Roger, and Augie Fleras. "Engaging with Indigeneity: Tino Rangatiratanga in Aotearoa." In *Political Theory and the Rights of Indigenous Peoples*, edited by Duncan Ivison, Paul Patton and Will Sanders, xi, 323. Cambridge ; Melbourne: Cambridge University Press, 2000.
- Mahoney, John. *The Making of Moral Theology: A study of the Roman Catholic Tradition*. Oxford: Clarendon Press. 1987
- Markus, Andrew. *Australian Race Relations, 1788-1993*. St Leonards, New South Wales: Allen and Unwin, 1994.
- Matheson, Peter J. "The Catholic Church and Aboriginal Land Rights." *Journal of the Institute of Catholic Education*. 9 (1989).
- McDonagh, Enda. *The Demands of Simple Justice*. Dublin: Gill and Macmillan, 1980.
- Mill, John Stuart. *On Liberty*. London: Harmondsworth: Penguin Classics, 1985.
- Moran, Patrick. *The Catholic Church and the Centenary of Federation* Australian Catholic Bishops' Conference, 2001 [cited 1 July 2003]. Available from http://www.catholic.org.au/media/2001/2001_11maystatement.htm.
- Morgan, Sally. *My Place*. Fremantle: Fremantle Arts Centre, 1987.
- Mulgan, Richard. *Democracy and Power in New Zealand*. 2 ed. Auckland: Oxford University Press, 1989.
- Munro, Jessie. *The Story of Suzanne Aubert*. Auckland: Auckland University Press with Bridget Williams Books, 1996.

- Nailon, Brigida. "Champion of the Aborigines: Father Duncan McNab, 1820/1896." *Footprints* 4, no. 9 (1982).
- Neville, Warwick, and Frank Brennan. "Memorandum: Native Title and the High Court, the Wik Judgement." Unpublished, 1997.
- New Zealand Catholic Commission for Evangelisation, Justice and Development. "New Hope for Our Society: Discussion Kitset." 1985.
- New Zealand Department of Maori Affairs, J. M. Booth, and J. K. Hunn. *Integration of Maori and Pakeha*. Wellington: Govt. Print., 1962.
- New Zealand Institute of Economic Research and Te Puni Kokiri. *Maori Economic Development Te Ohanga Whanaketanga Maori*. Wellington. New Zealand Institute of Economic Research, 2003.
- Nixon, P.J. *Land and the Aborigines of the Northern Territory*. Canberra: Department of the Interior, 1971.
- O'Connor, Toby. "The Australian Catholic Church's Pastoral Response to Aboriginal and Torres Strait Islander Peoples." *The Australasian Catholic Record* Volume 74, no. 3 (1997): 277-293.
- O'Farrell, Patrick. *The Catholic Church and Community: An Australian History (Revised Edition)*. Kensington, New South Wales: New South Wales University Press, 1985.
- . *Documents in Australian Catholic History: Volume I 1788-1884*. Melbourne: Geoffrey Chapman, 1969.
- . *Documents in Australian Catholic History: Volume II 1788-1884*. Melbourne: Geoffrey Chapman, 1969.
- Orange, Claudia. *The Treaty of Waitangi*. Wellington: Allen and Unwin, Port Nicholson Press, 1987.
- Orsy, Ladislav. "Function of Episcopal Letters." In *New Catholic Encyclopedia*. Washington: Catholic University of America, 1967.
- O'Sullivan, Dominic. *Maori and the Labour Market: An Analysis of Manatu Maori's Maori and Work: The Position of Maori in the New Zealand Labour Market*. Hamilton N.Z.: Centre for Maori Studies and Research University of Waikato, 1999.
- Power, Patrick. "Justice and Wik." *CommonWealth* 1997.

- Prowse, Christopher C. "Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion." Doctoral Dissertation, Pontifical Lateran University, 1995.
- Quentin L. Quade. *The Pope and Revolution: John Paul II Confronts Liberation Theology*. Washington, D.C.: Ethics and Public Policy Center, 1982.
- Read, Peter. *A Rape of the Soul So Profound*. St Leonards, New South Wales: Allen and Unwin, 1999.
- Redwood, Francis. *Sketch of the Work of the Catholic Church for the Last Half-Century, in the Archdiocese of Wellington, New Zealand*. Wellington: Lyon and Blair, 1887.
- Reese, Thomas J. *Inside the Vatican: The Politics and Organization of the Catholic Church*. Cambridge, Massachusetts: Harvard University Press, 1996.
- Reynolds, Henry. *This Whispering in Our Hearts*. St. Leonards, Australia: Allen and Unwin, 1998.
- . *Aboriginal Sovereignty: Reflections on Race, State, and Nation*. St Leonards, New South Wales: Allen and Unwin, 1996.
- Russo, George. *Lord Abbot of the Wilderness. The Life and Times of Bishop Salgado*. Melbourne: The Polding Press, 1980.
- Segundo, Juan Luis. In *Democracy and Mediating Structures: A Theological Inquiry*, edited by Michael Novak. Washington, D.C: American Enterprise Institute for Public Policy Research, 1982.
- Sharp, Andrew. *Justice and the Maori: The Philosophy and Practice of Maori Claims in New Zealand since the 1970s*. 2nd ed. Auckland; New York: Oxford University Press, 1997.
- Sigmund, Paul E. "Law and Politics." In *The Cambridge Companion to Aquinas*. Cambridge, edited by Norman Kretzmann and Eleonore Stump. Cambridge: Cambridge University Press, 1993.
- Smithies, Ruth. *Ten Steps Towards Bicultural Action: A Handbook on Partnership in Aotearoa-New Zealand*. Wellington: The Catholic Commission for Justice, Peace and Development, 1990.
- Sorrenson, M.P.K. "A History of Maori Representation in Parliament." In *Report of the Royal Commission on the Electoral System : Towards a Better Democracy*, edited by New Zealand. Royal Commission on the Electoral System. Wellington: Government Printer, 1986.

- . “Maori and Pakeha.” In *The Oxford History of New Zealand*, edited by W.H. Oliver. Auckland: Oxford University Press, 1981.
- Stockton, Eugene. “Maverick Missionaries: An Overlooked Chapter in the History of Catholic Missions.” In *Aboriginal Australians and Christian Missions*, edited by T Swain and D Rose. Adelaide: ASSR, 1988.
- Stogre, Michael. *That the World May Believe: The Development of Papal Social Thought on Aboriginal Rights*. Quebec: Editions Pauline, 1992.
- Temm, P. B. *The Waitangi Tribunal: The Conscience of the Nation*. Auckland, N.Z.: Random Century, 1990.
- Teurlings, William. *Mill Hill Fathers in New Zealand* [cited 19 April 2003]. Available from <http://millhill.co.nz/allpersonell.htm>.
- The Constitutional Centenary Foundation. *Factsheet 1999 Referendum: Preamble 1999* [cited 28 January 2003]. Available from http://www.centenary.org.au/involving_people/referendum_on_republic/New_preamble.pdf.
- The Good News Bible: Today's English Version*. London, 1981.
- Torres, Sergio. In *Democracy and Mediating Structures: A Theological Inquiry*, edited by Michael Novak. Washington, D.C: American Enterprise Institute for Public Policy Research, 1982.
- Tully, James. “The Struggles of Indigenous Peoples for and of Freedom.” In *Political Theory and the Rights of Indigenous Peoples*, edited by Duncan Ivison, Paul Patton and Will Sanders, xi, 323. Cambridge ; Melbourne: Cambridge University Press, 2000.
- Turner, Philip. “The Politics of Neutrality: The Catholic Mission and the Maori 1838-1870.” M.A. thesis, University of Auckland, 1986.
- Vaggioli, Felice. *History of New Zealand and Its Inhabitants*. Translated by John Crockett. Dunedin: University of Otago Press, 2000.
- Walker, Ranginui. *Struggle without End: Ka Whawhai Tonu Matou*. Auckland, N.Z.: Penguin, 1990.
- Whittaker, Alan. “An Imprisoned People - Australia 1988.” *The Month* Volume 21, October 1988 (1988): 884-889.
- Wilcken, John. “A Theological Approach to Reconciliation.” In *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights*, edited by Frank Brennan. Richmond, Vic.: Aurora Books/David Lovell Publishing, 1992.

- Williams, M.E. "Mind of the Church." In *New Catholic Encyclopedia, Volume IX*. Washington, D.C.: The Catholic University of America, 1967.
- Wood, Marilyn. "Nineteenth Century Bureaucratic Constructions of Indigenous Identities in New South Wales." In *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, edited by Nicolas Peterson and Will Sanders. Cambridge: Cambridge University Press, 1998.
- Zwart, Peter, Chris Orsman, and New Zealand Catholic Bishops' Conference. Catholic Office for Social Justice. *Church in the World: Statements on Social Issues, 1979-1997 by New Zealand's Catholic Bishops*. Wellington, N.Z.: Catholic Office for Social Justice, 1997.

UNIVERSITY OF WAIKATO
LIBRARY